

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

August 17, 2000

The regular meeting of the Metropolitan Area Planning Commission was held Thursday, August 17, 2000 at 1:30 p.m. in the Planning Department Conference Room, 10th Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Frank Garofalo, Chair; James Barfield; Chris Carraher (late arrival); Bud Hentzen; Bill Johnson (late arrival); Richard Lopez; Ron Marnell; John W. McKay, Jr.; Jerry Michaelis (late arrival); George Platt; and Ray Warren. Susan Osborne-Howes and Harold Warner were not present. Staff members present were: Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner; Scott Knebel, Senior Planner; Lisa Van de Water, Senior Planner; Barry Carroll, Associate Planner; and Karen Wolf, Recording Secretary.

1. Approve June 29, 2000 MAPC minutes

GAROFALO "Are there any corrections or additions to the minutes? I have a correction on Page 62. Where I am speaking, on the eighth line from the bottom, it should read '*was McConnell apprised*' rather than appraised. Also, in the first sentence, it should say *June 29, 2000* rather than *May 29, 2000*. Is there anything else? If not, can we have a motion?"

MOTION: That the Metropolitan Area Planning Commission approve the June 29, 2000 minutes as amended.

MARNELL moved, **PLATT** seconded the motion, and it carried unanimously (8-0).

2. Amendment to the Transportation Improvement Program (T.I.P) 2000.

JAMSHEED MEHTA, Planning staff "Mr. Chair, members of the Planning Commission. In fact, I will address you as members of the Metropolitan Planning Organization; this is a M.P.O. item.

A couple of months ago, in fact in the month of May, you adopted the Transportation Improvement Program for the year 2000. That was the one with all of the controversy going around it. This is the first amendment; a very minor amendment of that document.

Johnson arrived at the meeting at 1:35 p.m.

You have an insert in your packet. It concerns one of those pages. We removed two line items, but we added a new one. This is the first time that we are, in fact, putting an 'operating funds' category in what has traditionally been a Capital Improvement Program kind of category. It has to do with reimbursement to those transit providers who also apply for grants for purchasing buses and vans for Para-Transit service. But they are also eligible for some operating funds which are reimbursed. As long as it is not in the T.I.P., Sedgwick County and some of the other providers do not get this reimbursement, so it is essential that it be part of this document, hence it is before you this afternoon. I would be glad to take any questions."

GAROFALO "Does anybody have any questions on the change to this amendment? I think it is pretty clear. No questions? Do I have a motion to approve?"

MOTION: That the Metropolitan Planning Organization approve the amendment to the Transportation Improvement Program.

MCKAY moved, **BARFIELD** seconded the motion, and it carried unanimously (8-0).

3. Reconsideration of MAPC and Subdivision Committee calendars for the remainder of 2000.

GAROFALO "Does anyone have any questions or concerns about this? The only thing that bothered me was going from August 31 to September 21 without a meeting. That is a whole month. But that is fine."

KROUT "We have sometimes had a meeting on like a Monday or Tuesday before Thanksgiving Day to avoid that kind of a jump, but I think even under the old schedule, we had a jump somewhere else in there--from December 14 to January. This way, by pushing it back, we are closing that gap a little bit, to December 21 and January 18. There are a number of bugs that we are trying to work out with the District Advisory Boards. One of them is this scheduling. They are not going to change their schedule, they are going to meet on the first week of every month, and sometimes, at least, on the third week of every month. So we thought we would ask you to try to accommodate their schedule. Because unless we do, we

either have to delay zoning cases that they want sent to the District Advisory Board or else the DAB hears the case without getting any information from the staff, which they don't like.

This will put us in sync with the DABs, and Neil has reviewed it for the Subdivision Committee as well, and it doesn't seem to cause any problems."

GAROFALO "Does anyone have any questions about it?"

MOTION: That the Planning Commission approve the revised MAPC and Subdivision calendars for the remainder of 2000.

MCKAY moved, **LOPEZ** seconded the motion, and it carried unanimously (9-0).

Michaelis arrived at the meeting at 1:40 p.m.

FRANK GAROFALO, Chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning and vacation items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

4. Consideration of Subdivision Committee recommendations

GAROFALO "We are going to pull Items 4/1 and 4/2. Anything else? Okay. We could have a motion now to approve Agenda Items 4/3 and 4/4."

Subdivision Committee items 4/3 and 4/4 were approved subject to the Subdivision Committee recommendations.

JOHNSON moved, **HENTZEN** seconded the motion, and it carried unanimously (10-0).

Item taken out of order:

4/3. SUB2000-61 - One-step final plat of WOODLAND GLEN 2ND ADDITION, located west of Arkansas, on the south side of 32nd street North.

- A. City Engineering needs to comment on the need for any guarantees or easements. Municipal water and sewer services about the site and no guarantees are required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. A Reserve should be platted for the proposed detention pond.
- D. The applicant shall participate in the petition for the paving of Mascot Avenue and in the petition for future paving of Jeanette.

- E. The applicant shall submit a request for vacation of 32nd Street. A 90-ft segment of 32nd Street shall be retained to allow for a "T" turnaround for Jeanette.
- F. A turnaround for Jeanette is needed along the south line of the plat. City Fire Department has approved a "T" turnaround for this location.
- G. A 60-ft wide continent dedication of right-of-way should be platted for the extension of Jeanette, along with 25-ft building setback lines in order to allow for future development of urban-scale lots.
- H. A portion of the adjoining lot located to the west (30' x 100') is unplatted. This land was added to the lot in the Woodland Glenn Addition. It is recommended that this subject plat include a replat of the Woodland Glen Addition in addition to the inclusion of the remainder property between both plats.
- I. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Southwestern Bell has requested additional easements.
- T. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

4/4. DED 2000-19 - Dedication of a Utility Easement from Harold P. and Julia T. Wood, for property located on the southwest corner of Byron Street and Byron Court.

OWNER/APPLICANT: Harold P. and Julia T. Wood, 235 S. Byron, Wichita, KS 67209.

LEGAL DESCRIPTION: The south 20 feet of the west 78.75 feet of Lot 1, Woodland Westfield Second Addition, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2000-42, and is being dedicated for construction and maintenance of public utilities.

Planning Staff recommends that the Dedication be accepted.

4/1. SUB2000-56 - One-Step Final Plat of ELLSON COURT ADDITION, located south of Central, East of Greenwich.

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a zone change.
- B. The lots will be served by the Four-Mile Creek sanitary sewer system. On the final plat tracing, appropriate wording shall be added to the Mayor's signature block indicating the City's agreement to allow a County sewer district to be formed within the City. County Engineering advises that the Sedgwick County Sewer District Impact Fee for development of each dwelling unit in this Addition is \$12,050.07. This amount is not amortized by special assessment and is due and payable in full when initial permits are pulled. The Applicant has requested the removal of Lots 1-4 from the Four Mile Creek Sewer District in order to connect with City sewer.
- C. The applicant shall guarantee the extension of City water to serve the site.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- E. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- F. A minimum pad elevation as shown on New Life Christian Church Addition of 1366.4 MSL (179 City Datum) needs to be added.
- G. A benchmark needs to be added.
- H. The 15-ft utility easement adjacent to Ellson Court should be redesignated as a Street Drainage and Utility Easement.
- I. The dimension on the east line of Lot 5, Block 1, needs to be changed from 230.94' to 155.72'.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities. The Applicant will eliminate Reserve B from the final tracing.
- K. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. The platting binder indicates that a mortgage is being held in this site. This party shall be shown as a signatory on the final plat tracing or proof provided that the mortgage has been released.
- M. The applicant shall guarantee the paving of the proposed interior street.
- N. Access control except one opening" should be deleted and replaced by complete access control being platted for the plat's frontage along Ellson.
- O. The building setback line should be denoted by a dashed line.
- P. Traffic Engineering shall comment on the parking easement for back out parking that is platted within a street curve. The Subdivision Regulations require parking easements to be a minimum of 20 feet deep and have a maximum street frontage of 50 feet. The perimeter of the parking easements shall be redrawn to comply with these requirements. The applicant has agreed to revise the parking easement dimensions.
- Q. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- R. Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street, drainage and utility easements; a restrictive covenant shall be submitted which calls out restrictions for lot owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- S. City Fire Department needs to comment on the plat's street names. The street name is acceptable.

- T. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- U. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- V. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- W. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- X. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Y. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Z. Perimeter closure computations shall be submitted with the final plat tracing.
- AA. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- BB. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- CC. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.
- DD. A sewer easement needs to be platted through Lot 5 and Reserve A to cover an existing sewer line.

MCKAY "Mr. Chair, I would like to acknowledge that I received from a neighbor in reference to this item."

GAROFALO "I did also. Sounds like everyone did."

KROUT "Do you have a copy of the letter?"

GAROFALO "I don't have mine with me."

KROUT "Can you summarize what was in the letter?"

GAROFALO "No, I can't. I read it, but it was the other day."

KROUT "Okay."

NEIL STRAHL, Planning staff "This is the Ellson Court Addition. As you recall, this plat was deferred from our last MAPC meeting due to drainage concerns of the adjoining residents. Although the Subdivision Engineer originally approved the drainage plan, a revised drainage plan was submitted to her by MKEC to address the concerns raised by the neighbors' consultant, Mitch Mitchell. I did speak with Mr. Mitchell today and he assured me that the drainage plan was revised to his satisfaction. Are there any questions for staff?"

WARREN "Could we see another map of that in more detail? Do you have that? Yeah, let's look at that."

GAROFALO "Are there any other questions of staff? Is there anyone else to speak on this application? Does the applicant want to say anything?"

GREG ALLISON "I am with MKEC, representing the applicant. We worked out any differences we had with Mitch and adjusted one pad elevation, a minimum pad, and we are in agreement. Our drainage report showed no problems associated with The Fountains, which is upstream from ours and then the revision shows the same, so I think we are in agreement. I would be happy to answer any questions you might have."

GAROFALO "Does anyone have any questions of the applicant? Have you discussed anything with this Mr. Johnson?"

ALLISON "As far as a neighbor?"

GAROFALO "Yeah, I think his concern is something about the driveways lining up or something like that."

ALLISON "I think he was at the last Planning Commission meeting and brought it up. He was concerned that our road emptied out right adjacent to his driveway. Is that the one?"

Carraher arrived at the meeting at 1:45 p.m.

KROUT "Yes. Just across the street. He expressed his concern again. There was really no new information."

ALLISON "That is the only conversation we have had on that."

GAROFALO "Are there any other questions? Okay, thank you. Is there anyone else that would like to speak on this subdivision item? If not, the rest of the discussion will be by the Commission."

MOTION: That the Planning Commission recommend to the governing body that the request be approved.

LOPEZ moved, **WARREN** seconded the motion.

CARRAHER "Mr. Chair, due to my late arrival, I will abstain on this item since I didn't hear it."

VOTE ON THE MOTION: The motion carried unanimously (10-0-1).
Carraher abstained.

4/2. SUB2000-60 - One-Step Final Plat of PIZZA HUT PAWNEE/HYDRAULIC ADDITION, located on the northeast corner of Hydraulic and Pawnee.

- A. Municipal water and sanitary sewer services are available to serve the site. City Engineering needs to comment on the need for any guarantees or easements. A 20-ft wide easement will need to be platted to cover the existing east-west sanitary sewer line across the northern portion of the site. A temporary easement is needed to cover the sewer line running parallel with the east line of the plat until its removal.
- B. The applicant shall remove the underground storage tank before the release of the plat for recording.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage plan. A revised drainage plan needs to be submitted. As some of the site's drainage is directed onto the adjacent railroad right-of-way, a letter shall be provided from that railroad indicating their willingness to accept such drainage.
- E. Traffic Engineering needs to comment on the access controls. The plat proposes three access openings along Hydraulic and two access openings along Pawnee. 150 feet of complete access control is required from the intersection and from the nearest railroad track. This will necessitate a modification from the Subdivision Committee. Distances should be shown for all segments of access control. The final plat tracing shall reference the access controls in the plat's text. Traffic Engineering has approved one opening along Hydraulic (full turning movements) and one opening along Pawnee (right turns only). The Subdivision Committee has approved a modification of the required complete access control along Pawnee.
- F. Traffic Engineering needs to comment on the need for additional right-of-way along Hydraulic and Pawnee. The Applicant shall dedicate 50-ft of half street right-of-way along the northern 245 feet of the plat's frontage along Hydraulic, 45-ft of half-street right-of-way along the remainder of Hydraulic, 50 feet of half-street right-of-way along the corner clip, and 50 feet of half street right-of-way along Pawnee.
- G. The platting binder shows that the site's ownership is in the name of additional parties. These names must appear on the owner's signature block on the final plat tracing.
- H. The owner's name "Noles" on the signature block needs to be corrected to "Niles" as referenced in the platting binder.
- I. The Deputy County Surveyor has advised that the plat boundary does not close.
- J. The "utility setback" along the south needs changed to a "utility easement".

- K. The width of the KGE easement in Book 32, Page 1058 needs to be denoted, along with the location of the south end of the easement.
- L. On the Benchmark, both C's need changed to Centerline.
- M. The legend needs changed from "I.P." to "found monument".
- N. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- O. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Southwestern Bell requests a 10-ft utility easement along the eastern line of the plat.
- X. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

GAROFALO "I would like to get a little more explanation here on Item E on the accesses."

STRAHL "This was approved last week by the Subdivision Committee in regards to access. Traffic Engineering approved one opening along Hydraulic with full turning movements, both right and left turn movements; and along Pawnee, that opening was approved with just right turns only.

As I stated, a modification of the access control on Pawnee was approved by the Subdivision Committee because, according to our Subdivision regulations, there would not be any opening permitted along Pawnee due to a required 150 feet complete access control from the intersection, and also 150 feet complete access control measured from the railroad tracks."

GAROFALO "So there will be no opening?"

STRAHL "There will be no opening permitted by our Subdivision regulations. There is one permitted; however, by Traffic Engineering, so we needed a modification by the Subdivision Committee, which was granted."

GAROFALO "Okay, so the modification was the approval of one access, but right turn only?"

STRAHL "Correct. In and out."

GAROFALO "Right. In and out. Okay, because I was pretty concerned. That is a lot of traffic there on that stretch on Pawnee. Okay, I am satisfied with the change, then. Any other discussion?"

MOTION: That the Planning Commission recommend to the governing body that

the request be approved.

GAROFALO moved, **MARNELL** seconded the motion, and it carried unanimously (11-0).

GAROFALO "Okay, now we will do the vacation items. Is there anyone here to speak on Items 5/1 or 5/2?"

LISA VAN DE WATER, Planning staff "I have nothing further to add on Agenda Items 5/1 and 5/2 except that on Item 5/2, I have adjusted the legal description at the request of the Subdivision Committee's recommendations. Both applicants are here to answer questions if there are any by the Planning Commission."

GAROFALO "Okay. Does anyone have any questions of staff or the applicants? Apparently not, so what is the pleasure?"

MOTION: That the Planning Commission recommend to the governing body that Agenda Items 5/1 and 5/2 be approved.

WARREN moved, **JOHNSON** seconded the motion, and it carried unanimously (11-0).

5/1. VAC2000-00030 Request to vacate a portion of building setback.

OWNER/APPLICANT: Next Generation Investments, LLC, c/o William or Alan Smith

AGENT: N/A

LEGAL DESCRIPTION: The North 15 feet of the South 50 feet shown a Building Setback along Eisenhower Court, on Lot 9, Block 1, Airport Industrial Park Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Approx. 5 blocks south of Harry on the west side of Hoover (1821 S. Eisenhower).

REASON FOR REQUEST: Development of the site.

CURRENT ZONING: "LI" Limited Industrial

The applicant is requesting to vacate the interior 15 feet of a 35-foot platted building setback on the south property line of Lot 9. This property is zoned "LI" Limited Industrial, which has no street side building setback requirement per the Zoning Code. This adjustment to the existing setback would comply with the required zoning setback. This request would allow the applicant to develop the property consistent with Lot 10, north of the subject property.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle of notice of this vacation proceeding one time July 26, 2000, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of a building setback, and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

B. Therefore, the vacation of a portion of building setback described in the petition should be approved.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval.

5/2. VAC2000-00031 - Request to vacate a portion of a utility easement

OWNER/APPLICANT: Ronald and Terry Butts

AGENT: N/A

LEGAL DESCRIPTION: Utility easement described as the west 12 feet of the east 22 feet of the north 5 feet of Lot 6, Block L, Longview Terrace, an addition to Wichita, Sedgwick County, Kansas.

LOCATION: Approx. ½ mile south of Kellogg and ½ mile east of Hillside (714 S. Roosevelt)

REASON FOR REQUEST: Construction of a 12-foot by 16-foot shed.

CURRENT ZONING: "TF-3" Two-Family Residential

The applicants are requesting to vacate a portion of the 10-foot utility easement along their north property line for construction of a storage shed.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle of notice of this vacation proceeding one time July 26, 2000, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of a utility easement, and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of utility easement described in the petition should be approved.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval.

KROUT "We will need to wait until 2:00 on the next case because that was the advertised time. Commissioners if I could go back to that revised schedule you had. Jamsheed is not still here, but every three years the Federal Transportation Agencies, the Federal Highway Administration and the Transit Administration sends staff to this community like it does to other communities to certify the Metropolitan Planning Organization process. As part of that, they will be having meetings with our department, with the Public Works Departments, with the transit people, but they also would like to meet with the M.P.O., and you are the M.P.O."

They are going to be in on Wednesday and Thursday 6 and 7. That is a date that we don't have scheduled for either Subdivision or a regular Planning Commission meeting, but that is the only time that they will be here. So I guess I am asking if we can get as many people as possible--it doesn't even have to be a quorum--to attend the meeting. We don't have to do it at 1:30; we could do it later in the afternoon if you would like at about 3:00 or 3:30, if that would be more convenient for you.

But for those who could attend, we would really like for you to be able to participate in the discussion with the federal officials on September 7. You should plan on at least an hour and a half. We probably shouldn't start later than 3:30. I will send out a notice for you."

WARREN "We will get a copy of this new revised schedule, won't we?"

KROUT "Right. We will send you out a new revised schedule and we will include that special September 7 meeting, too."

PLATT "I will be out of town."

KROUT "If you have any comments that you would like to provide for them if you are out of town, do that and we will pass them on to them."

HENTZEN "Marvin, will you include in your notice to us what the subject is?"

KROUT "Right. We will see if we can kind of develop an agenda so you know what they want to ask you about and what subjects they want to cover. I think they are interested in the planning process and how you went through the Transportation Plan, how you involved the public, and there are some areas of emphasis that they are supposed to ask us about. But we will try to get you some advance information on that."

HENTZEN "Okay."

GAROFALO "Does anybody else have anything to bring up?"

ZONING:

6. **ZON2000-00033** - (Associated with **CON2000-00028** to be heard on August 31, 2000) Kimberly Phillips (Owner/Applicant) PEC c/o Gary Wiley (Agent) request a zone change from "SF-6" Single-Family Residential to "GO" General Office and "LC" Limited Commercial on property described as:

The north 212.00 feet of the west 320.00 feet of the following described tract:

Beginning 100 feet north and 40 feet east of the southwest corner of the northwest quarter (NW/4) of section 7, township 27 south, range 2 east of the 6th P.M. Sedgwick County, Kansas; thence bearing N00deg00'00"E parallel with and 40.00 feet east of the west line of said SW 1/4, 462.00 feet; thence bearing S89deg47'44"E, 700.00 feet; thence bearing S00deg00'00"W, 462.00 feet; thence bearing N89deg47'44"W, 700.00 feet to the point of beginning.

"SF-6 to "GO"

Beginning 100 feet north and 40 feet east of the southwest corner of the northwest quarter (NW/4) of section 7, township 27 south, range 2 east of the 6th P.M. Sedgwick County, Kansas; thence bearing N00deg00'00"E parallel with and 40.00 feet east of the west line of said SW 1/4, 462.00 feet; thence bearing S89deg47'44"E, 700.00 feet; thence bearing S00deg00'00"W, 462.00 feet; thence bearing N89deg47'44"W, 700.00 feet to the point of beginning; except the north 212.00 feet of the west 320.00 feet thereof. Generally located east of Woodlawn and north of 17th Street North.

BARRY CARROLL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant is requesting a zone change from "SF-6" Single-Family Residential to "GO" General Office (Parcel 2 – 29,150 square feet/Parcel 3 – 29,150 square feet) and "LC" Limited Commercial (Parcel 1 – 65,720 square feet) on a 7.42 acre tract located east of Woodlawn and north of 17th Street North. In conjunction with this zone change request, the applicant has submitted a request for a Conditional Use permit to allow a self-service storage warehouse facility on Parcel 4, the southern 2.89 acres of the subject property. This case will be heard at MAPC on August 31, 2000.

The applicant has submitted a "Woodlawn Court Development" site plan (attached) for the application area. The development plan contains four parcels. The northwest parcel (Parcel 1) abuts Woodlawn and is proposed to be zoned "LC" Limited Commercial. The applicant has had an inquiry from a furniture store operator about possibly locating on Parcel 1. Parcels 2 and 3 are proposed for "GO" General Office zoning and office uses are proposed.

The site plan for the Conditional Use shows a self-service storage warehouse facility on the southern-most parcel (Parcel 4) with 19 storage buildings and an office/residence building. The facility is shown to be enclosed by a combination of the exterior storage building walls with wrought iron fence filling the gaps between the building walls and a wrought iron fence along the south line of the enclosed area. The site plan shows a 15-foot landscaped yard along the western edge of Parcel 4. A 15-foot landscaping easement, which will be granted by KGE, by separate instrument, is shown along the south property line.

Access to all parcels is shown to be from a private drive off of Woodlawn, a four-lane arterial. There is complete access control along Woodlawn with the exception of the one shared opening.

The applicant also submitted building elevations for the proposed self-service storage warehouse development. The building elevations indicated that all building exteriors would share the same exterior building material of either synthetic stucco or masonry for the office/residence and storage buildings, and would have low-pitched gabled roofs with a proposed height of approximately 12 feet.

The surrounding area is predominately developed with single-family residential uses to the west, south and southeast. The Hebrew Congregation Synagogue is directly north of the subject property and the First Free Evangelical Church is located to the northeast across Woodlawn. A KGE Substation is directly east. All of these areas are zoned "SF-6." There is vacant property to the northeast that is part of DP-67 Northborough C.U.P. approved for office use and apartments. The subject property is bordered on the south by a railroad and further south is a fire station. The rail line is shown as a future rail banking alignment for a bike path.

CASE HISTORY: The subject property is currently unplatted. KGE purchased this property over 30 years ago for possible expansion of an existing substation. A similar request (CU-534 & Z-3332) was filed in July 1999, but withdrawn prior to being considered by MAPC.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-6"	Hebrew Congregation Synagogue, Vacant
SOUTH:	"SF-6"	Railroad, Fire Station, Residential Dwellings
EAST:	"SF-6"	KGE Substation
WEST:	"SF-6"	Residential Dwellings, First Evangelical Free Church

PUBLIC SERVICES: This site has one access onto Woodlawn, a four-lane arterial. Traffic volumes for 2000 were 21,732 (ADT) along Woodlawn near 17th Street North. Traffic volumes projected for 2030 are projected to be 25,502. Municipal services are available to this site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the 1999 Comprehensive Plan identifies the general location as appropriate for "Low-Density Residential" development, however the Comprehensive Plan Indicates Institutional and Office uses as appropriate uses directly to the north. While the subject property does not conform to the Land Use Guide, it meets the Commercial Locational Guidelines of the Comprehensive Plan. The Unified Zone Code contains development standards for self-service storage warehouses facilities located in the "GO" and "LC" districts that are meant to minimize the impact of such facilities for nearby residential areas.

RECOMMENDATION: The property is surrounded by property zoned "SF-6" and used for residential and institutional uses. However, the presence of the KGE substation makes residential use unlikely. The task is to identify low-intensity commercial uses compatible with the surrounding area. It is recommended that a Protective-Overlay be used to eliminate the more intense commercial uses permitted in the "LC" district.

In terms of traffic, the applicant has shown a northbound decel lane into the property. A left-turn storage lane on Woodlawn ends a considerable distance north of the property, in front of Brittany Center. While it would not be the responsibility of the applicant to extend it to this site, it would be recommended that the applicant be asked to participate in provision of a left-turn lane if a city project were done. Finally, the provision of a single point of access will make left-turn movements from the site onto Woodlawn difficult. A second point of access to the north/northwest connecting to Rockhill Road would provide access to the signalized intersection at Woodlawn and Rockhill.

At the MAPC meeting on August 31, 2000 when the Conditional Use is considered, Staff will provide specific recommendations on the requested warehouse, self-storage units. These will review units compliance with the Unified Zoning Code requirements, ensuring that due consideration is given to Sec. III-D.6.y(5) on architectural design that is compatible with the surrounding residential development, which is predominantly brick exteriors with hipped and gabled, shingled roofs, and that adequate screening is provided.

Based upon these concerns, and the information available prior to the public hearing, planning staff recommends following:

- A. APPROVE the zone change (ZON2000-00033) to "LC" and "GO," subject to platting within one year, with consideration of traffic improvements at time of platting, and subject to a Protective Overlay with the following conditions:
1. Parcel 1 shall be restricted to those uses allowed as permitted uses in the "LC" Limited Commercial zoning district except the following: adult entertainment, convenience stores; construction sales and service; hotel or motel; night club; recreation and entertainment, indoor; service station; tavern and drinking establishment; tire and battery stores; and vehicle repair, limited. Restaurants shall be permitted so long as they do not provide any drive-up window service or in-vehicle food service.
 2. Building heights shall be limited to 25 feet in height.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is developed with single-family residential uses, a fire station and the Hebrew Congregation Synagogue adjacent to the site, as well as another church across Woodlawn. Commercial uses are located farther north toward Brittany Center. The most directly impacted properties by the proposed development are several residential properties zoned "SF-6" Single-Family Residential located to the west and south, where the character of development is that of predominately brick single-story dwellings, and the Hebrew Congregation Synagogue to the north that is also zoned "SF-6." East of the subject property is a KGE Substation, which is zoned "SF-6." The railroad line adjoining to the south is identified as a potential bike path.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "SF-6" Single-Family Residential and could be developed for single-family use; however, the site has remained undeveloped since it was purchased over 30 years ago. Additionally, there are high-voltage transmission and distribution lines that run the east-west length of the property and discourages residential use in the immediate vicinity of the lines.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The suggested Protective Overlay would reduce the intensity of commercial uses allowed on Parcel 1. With these restrictions and the "GO" designation on the remaining parcels, the commercial/office uses could serve as a buffer between the residential uses to the south and the commercial activities concentrated at the intersection of Woodlawn and 21st Street North.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the 1999 Comprehensive Plan identifies the general location as appropriate for "Low-Density Residential" development, however the Comprehensive Plan indicates Institutional and Office uses as appropriate uses directly to the north. While the subject property does not conform to the Land Use Guide, it meets the Commercial Locational Guidelines of the Comprehensive Plan.
5. Impact of the proposed development on community facilities: The presence of a single point of access onto Woodlawn poses potential traffic problems for left-bound turns, both into and out of the property. This impact would be mitigated by the relatively low traffic demand generated by a furniture store, if it is the actual use located onto Parcel 1. However, should the parcels be developed with commercial and office uses generating greater traffic demand, the need for a left-turn storage lane on Woodlawn and a second point of access to Rockhill Road becomes more important to mitigate traffic issues.

GAROFALO "Let me mention that Director Krout is not going to participate in any of this discussion. He feels that he might have a conflict of interest. He is a member of the Hebrew congregation."

BARFIELD "Why are we hearing this today when it says on the staff report that this is to be heard on August 31?"

GAROFALO "That is the Conditional Use that it is associated with."

CARROLL "I will get into that. I would like to clarify one thing on this, that today we are focusing on the zone change request for the entire 7.4 acre tract and the Conditional Use will be addressed at the August 31 meeting. We are going to simply address the zoning issue today and the Conditional Use at the next meeting.

The request is for a zone change from 'SF-6' Single-Family Residential to 'GO' General Office on Parcels 2 and 3, and for 'LC' Limited Commercial on Parcel 1. You may want to refer to your development plan that shows all four parcels. The applicant has submitted the site plan and it contains four parcels. It should say the northwest parcel, Parcel 1 abuts Woodlawn and is proposed to be zoned 'LC'. The applicant, as I understand it, has an inquiry from a furniture store operator about possibly locating a furniture store on Parcel 1. Parcels 2 and 3 are proposed for General Office use zoning and office uses are proposed on them.

Access to the parcels will be from a private drive off Woodlawn. There is complete access control along Woodlawn with the exception of this one shared opening. A decel lane is being proposed along Parcel 4, just north of the railroad tracks on the east side of Woodlawn. The area surrounding is mostly single-family uses to the west, south and southeast. As I mentioned earlier, the Hebrew Congregation Synagogue is directly to the north, there is a church to the northwest and the KG&E substation is located directly to the east. All of these areas are zoned 'SF-6'.

There is a vacant property to the northeast of this site that is part of DP-26 or the Northborough CUP. That has been approved for office and apartment uses. The subject property is bordered to the south by a railroad and further south is a fire station. The rail line, as shown is being considered as a possible future rail banking alignment for a possible bike path. Currently the property is unplatted. This property was purchased by KG&E 30 to 35 years ago, maybe more with the thought of a possible expansion by the substation. They did not do that and sold the property. A similar request was filed back in July of 1999. It was a Conditional Use and a zone change, but was withdrawn prior to coming before the MAPC. As stated, the properties adjoining are used for either residential or institutional uses. With the presence of this KG&E substation with the high voltage transmission lines that run over top of the property, residential uses are unlikely for this particular property. So our task was to identify low-intensity commercial uses that would be compatible with the surrounding area. We are recommending that a Protective Overlay be used to eliminate the more intense commercial uses permitted in the 'LC' district of Parcel 1.

In terms of traffic, the applicant has shown a northbound decel lane and a left-turn storage lane is quite a distance from this site. It is actually in front of the Brittany Center. So while it would not be the responsibility of the applicant to extend a lane to this site, it is recommended that the applicant be asked to participate in the provision of a left-turn lane when and if the City project was undertaken to make a turn lane on Woodlawn. Ideally it would be good to have a second point of access to the north or the northwest connecting to Rock Hill Road. I think this has been mentioned, but I don't think it is acceptable to the properties to the north, so it is not part of our application.

I would like to direct your attention to the two memos attached in your packet. We did receive a petition with 44 names that indicate opposition to this particular request. I think we provided that for you. The second memo is from the District Advisory Board. We had a meeting in District 2 on Monday, August 7. There were approximately 15 to 20 people in attendance at that meeting. There was considerable discussion. Due to timing, we included both the Conditional Use request and the zone change request at the District Advisory Board meeting.

To summarize, the District Advisory Board voted 8-0 to recommend approval of the proposed zone change. They believed that it would be developed with the high-powered transmission lines, but it would unlikely be developed

residential. We are recommending that this zone change be approved to 'LC' and 'GO', subject to platting within 1 year with consideration of traffic improvements at the time of platting and subject to a Protective Overlay with the conditions on Page 4 of the staff reports. We are suggesting that the following uses be restricted: Adult entertainment, convenience stores, construction sales and service, hotel and motel, night clubs, recreation entertainment, indoor service stations, tavern and drinking establishments, tire and battery stores and vehicle repair. Restaurants may be permitted as long as they do not provide any drive-up window service or in-vehicle food service and that the building heights be limited to 20 feet in height.

In summary, we felt with the substation and the transmission lines that this would not ever be developed residentially, and we are recommending approval of this zone change request. I would be pleased to respond to any questions that you might have."

GAROFALO "Are there any questions of Barry?"

PLATT "Clear up for me the status of the railroad. Has it been abandoned?"

CARROLL "As far as I can determine, it has not been officially abandoned as yet. The Planning Department is expecting to hear from the railroad, but it has not been officially abandoned."

MICHAELIS "Barry, that little strip below where you have the dark brown line. What is that? Right there, between the railroad and the south side of the property."

CARROLL "That is KG&E access. There is that gravel road."

MICHAELIS "Okay. Is that where the lines actually run?"

CARROLL "No, the site is 200 feet north of the railroad, approximately."

MICHAELIS "Okay, the KG&E lines run in there?"

CARROLL "Oh, I'm sorry, yes. They do. They run right back and forth through there."

MICHAELIS "What happens when they get to the west part of the property? Don't they go across the street?"

CARROLL "I am not sure. I think they do."

KROUT "I think that is all residential over there."

CARROLL "Yes, it is."

BARFIELD "We talk here about the left-turn lane up in front of Brittany Center, but was there any consideration given to the traffic as we approach from the north, just as soon as you cross the railroad track?"

CARROLL "There is a decel lane being proposed right here, just north of the railroad track on the east side of Woodlawn. Then there is going to be a shared driveway down the middle of the property. That is being proposed."

GAROFALO "Any other questions? Okay, we will hear from the applicant."

GARY WILEY "I am here on behalf of the applicant. First off, I would like to start out by saying that we are in agreement with the staff comments, including participating in the left turn lane as stated on Page 3 in the last paragraph. The site is 7.4. Of that 7.4 acres, approximately 3/4 of an acre will be set aside for drainage purposes. That is shown as Reserve B on your development plan.

Mr. Michaelis, you questioned about the KG&E overhead lines. There is one that bisects the middle of the property. It is a high voltage transmission line. It does cross Woodlawn and then goes north on Woodlawn. It does not go on through the residential neighborhood. There is also an overhead distribution line along the south edge of the property. So we have two pole lines that run east and west of the site. The back edge of our property is about 70 feet from that substation that you saw in the aerial photograph."

WARREN "That would be in Parcel 4?"

WILEY "Yes. Actually, it is 70 feet to the east of Parcel 4 and Reserve B. That is where the chain-link fence is. This is a very large substation for KG&E. I would like to point out that one of the things that Mr. Carroll brought up was that there was a petition filed by the residents of the area. On the first page of the petition, if you will notice, in their last paragraph, they were opposed to the zoning request for the purpose of the self-service storage warehouses. I believe it was the consensus of everybody there as D.A.B. understood it, that the residents were not actually opposed to the Office and the Limited Commercial zoning districts that were proposed.

This week, a contract has been sent to a furniture store located in Tulsa. It is a chain store. An agreement had been reached on the price and the contract was sent. We do not have a signed contract in hand yet, but it would go on Parcel

1 of the development plan. It is a 20,000 square foot furniture store. On Parcel 3, the applicant and others are proposing to build a real estate office. It will be for their use on Parcel3. Actually, Parcel 2 is the only thing that is uncommitted. We do have a signed contract on the storage warehouses, which you will hear two weeks from today for the Conditional Use on that. I would be happy to answer any questions that you have."

WARREN "I guess you heard the restrictions being placed on you by the Protective Overlay?"

WILEY "We are in complete agreement."

GAROFALO "Are there any other questions of Gary?"

HENTZEN "Gary, that is being used for Ag use right now, isn't it?"

WILEY "Right now it is Ag use."

HENTZEN "They are growing hay up there. Do you have a clue as to what the taxes on this piece of property is this year?"

WILEY "I don't on this piece because it was just split off earlier, but I can guarantee you that they would be very minimal. Approximately \$7.00 an acre."

HENTZEN "If you put in the offices that you are proposing under this zoning, do you have a clue as to how much that would be worth in taxes, \$.5 million or \$1 million?"

WILEY "Well, the storage warehouses are not a done-deal yet, but the offices themselves; the one office is under design right at this minute, we are talking in excess of \$.5 million

HENTZEN "Do you know what the taxes would be on half a million?"

WILEY "I'm sorry, I really don't."

HENTZEN "I think it would be about \$12,500 or \$13,000."

WILEY "I know the furniture store is some 20,000 square feet and it will be in excess of \$1 million."

HENTZEN "Did you say that that furniture store would be in excess of \$1 million?"

WILEY "With the purchase of the land and everything, yes. A 20,000 square foot building and parking."

HENTZEN "Well, a \$2 million investment of property on the tax rolls that is not there now would be about \$50,000 per year."

WILEY "That's correct."

PLATT "I want to go on record assaying that I am very uncomfortable with any discussion of what a proposed zoning change would do to tax collection because it should have nothing to do with the decision we make in terms of zoning."

GAROFALO "Any other questions? Thanks, Gary. Is there anyone else who wishes to speak in support of this application? Is there anyone who would like to speak in opposition? Would you raise your hands so I can get an idea of how many? About seven people. Okay. We will hear from the first speaker."

LARRY LEVICH "I am the neighbor to the north. I am the President of the Hebrew Congregation Synagogue, which is a religious organization that has been there for approximately 40 years plus. It is made up of about 90 families. There is a gentleman in town that I have known for probably 25 to 30 years. He is a large real estate developer, entrepreneur and commercial realtor by the name of Carl Chuzy. Carl has personally, over the years has told me that we, as a congregation should have great, great concern as to what would happen to the property to the south of us. He had great concern for my congregation and its members, but also for the neighbors surrounding it because he felt that if it was ever developed, it could cause our property values and the neighbors' property values, who are residential residents to be devalued.

It was his intention at one time and he told me, to possibly purchase this himself and donate it to the Hebrew Congregation in order to protect the religious organization on the land and also the neighborhood, as a whole, would benefit from this possible donation. Therefore, I am here to speak against this today. Carl Chuzy approached our monthly board meeting at Hebrew congregation several months ago with plans for this development. He was requesting that Hebrew Congregation donate to him, for a roadway, that would connect the property we are talking about today to Rock Hill, thus being able to get to 21st Street or to Woodlawn from the property to the south of this. Without our granting of this easement, Carl was greatly concerned about traffic into and out of this development and the tremendous traffic congestion caused without it.

We, the Hebrew Congregation, refused his request, as it was not in our best interest, nor was it in the best interest of our neighbors, our residential neighbors. I ask you, can you think of any church that is surrounded by a storage facility or a shopping center such as that that is being proposed. The traffic, during a good time of the year, which is 9 months out of the year because of Coleman School and other private schools in the area with buses in the morning and buses in the afternoon, and just the traffic that has been increased in Wichita over the years, would be a terrible congestion for that property.

Please, everyone, be reminded that there is plenty of available retail office space, etc., at such places as Brittany Center, Plaza del Sol Shopping Center, which is the Kapaun property, as well as the shopping center at 21st and Woodlawn, which is kitty corner from Brittany Center. There is also space available at Carriage Park. There is a large center that needs tenants at 21st and Oliver. There is Bradley Fair, Prairie Village, and the Normandy Shopping Center. So do we really need another shopping center in such close proximity? The usage is really not compatible with the surrounding usage such as a church and residential homes that are presently in place and have been for a long time.

You need to know that I wear two hats. One is President of this religious organization and another, as a residential associate broker with J.P. Weigand Real Estate. It seems that the best usage of this property would be for patio homes in a price range from \$120,000 to \$190,000. Yes, there is a power line on this property that you all refer to, but please keep in mind that there are power lines such as this that go through Woodspring, Oxford Place, Waterford and other locations throughout the east and west side of Wichita. It has also been my experience to see homes decrease in value and their rate of sale decrease in areas where this type of zoning and building have been allowed. If you look at homes on 12th Street, west of Woodlawn, or homes on 12th Street east of Woodlawn, they are very, very difficult to sell because they back up to commercial-type property.

As a city, sure we have to continue to grow and expand, but in the proper manner. If all of us were to live here, would we want to consider this proper? As a resident in this area, on behalf of ourselves and our neighbors, we request that this be rejected because it is not in the best usage of this land."

GAROFALO Mr. Levich, your time is up. Do you need more time?"

LEVICH "Just probably three minutes."

MOTION: That the speaker's time be extended for 1 minute.

MCKAY moved **CARRAHER** seconded the motion, and it carried unanimously (11-0).

LE VICH "In conclusion, I would say that you work for us, the citizens and for our best interest. We ask for your help and guidance today. Thank you very much."

GAROFALO "Thank you. Are there any questions of the speaker? Okay. Next speaker."

STEVE ROBERTS "I am President of the Chisholm Creek Neighborhood Association. I live at 1832 Farmstead. Our subdivision lies directly to the west of this property. I would like to be as detailed as our friend from the Hebrew Congregation was, but unfortunately, I can't. Despite the Planning Department's policy of notifying nearby neighborhood associations, we were not informed. No one notified us of this zoning change."

GAROFALO "Excuse me, sir. (Indicating) Did you hand these out?"

ROBERTS "That's correct, I did."

GAROFALO "So they are from you and, do you represent the Chisholm Creek Neighborhood Association?"

ROBERTS "Yes."

GAROFALO "You are representing them here today?"

ROBERTS "That is correct. We had basically a two-day warning of this meeting. Our concerns with this property, and we may have some major concerns with the zoning change and we may not, but we did not have enough notice to do any background or to find out. Seventeenth Street is the only major access route and only really usable access route from the subdivision onto Woodlawn. Any additional traffic that would go onto the east side of the street there would make it more hazardous. On the sheet that you have before you, I have detailed why there are traffic hazards at that position, including the fire station directly to the south, and the EMS station directly to the north.

We have, although it doesn't show on the map in front of you there, it does show on the second sheet map there; there is a Cerebral Palsy Foundation on the west side of the subdivision and The Timbers residential facility for the handicapped. We have high wheel chair traffic at that intersection. We have school children going to Coleman Middle School going through that intersection. For all of these reasons, we thought that we should have been considered; we should have been notified, and we should have had a chance to attend any meetings on this, particularly at the District Advisory Board level.

However, this property is a little unique in that it is sitting directly on the dividing line between District I and District II. Our neighborhood association and our subdivision lie in District I. District I was not notified of this zoning change because we are across the street and the zoning change is in District II. But as you can see from the map, most of the impact of this facility would fall in District I. The property is separated from the District II residences on the south by the railroad tracks.

There is not a lot I can add to that because we really don't know all that much that we haven't heard here today because of the lack of notification. I would like to ask that this matter be deferred until the next MAPC meeting so that we would have a chance to review the specifications for the site and to talk to the developer. Also to review the traffic flows and the accident rate at the 17th and Woodlawn intersection. Are there any questions?"

GAROFALO "Are there any questions of the speaker? I have one question. Were any of the residents right directly across the street notified?"

ROBERTS "Apparently a few were."

GAROFALO "They should have been."

ROBERTS "I live three blocks up on 17th and I sure did not receive any notice."

GAROFALO "Where do you live?"

ROBERTS "I live three blocks in on Farmstead, and I was not notified. I am probably outside of the notification area, but it is the Planning Department's own policy to notify neighborhood associations within a quarter of a mile. We are across the street and we were not notified."

GAROFALO "And you have had no conversations with the applicant at all?"

ROBERTS "None whatsoever. I was out of town and found out about this when I came back two days ago."

GAROFALO "And the association was not represented at the D.A.B. meeting?"

ROBERTS "There was no representation at District Advisory Board II. I am an alternate member on District Advisory Board I. We were not notified. It did not come to District I for discussion because it falls on the other side of Woodlawn."

GAROFALO "Are there any other questions of the speaker? Thank you, sir. Next speaker."

RYAN BENDELL "I am a member of the Hebrew Congregation. My address is P.O. Box 1641 in Wichita 67201. I am going to show you something on the map. (Indicating) This is the property that the Hebrew Congregation is on, and if you are familiar with it, on the south side of the property, just adjacent to the north property line of what we are discussing today, we have an entrance that runs down from about the middle to about where this arrow points. The building sets a little bit catty wampus on the property sort of like this, but slightly smaller.

Accordingly, the south side has this paved road coming in. To first lay this out, when this was built and zoned 40 years ago, and paid for partially by my grandparents, the plan was for that to stay, if it were ever developed, as single-family residential, which for the most part, seems to be much more consistent with a house of worship. Personally, I am very concerned, if they put this in and we come in on our access road, and you have to remember that our building doesn't face Woodlawn, but actually sort of faces south that we will end up looking at trash dumpsters and the back side of unkempt buildings because they are not going to care about their backside, they will care about their front side, facing south, which we won't see. So we are not necessarily going to get the advantage of seeing a pretty front façade on a half million-dollar office building, but in fact we are going to see their trash dumpsters or whatever they put behind. That is very concerning to me.

In addition, I think that the traffic situation, if we are trying to pull out onto Woodlawn, you are going to find that that traffic turn lane, if you decide to do this, should be required. It is too important. You are going to have the elderly, these kids from Coleman Middle School and the school buses. I think what they are indicating is that the Coleman buses come up Farmview to here (indicating) and you are going to have a serious problem with that additional traffic. My personal feeling is that you should leave it as single-family residential, which is more consistent with a house of worship, and second, if you do decide to do this that they also be required to put up some sort of a retaining wall along the north side of their property, the entire length, so as not to destroy any more of our property values by requiring us to come out and be faced and look out our windows directly at trash dumpsters or the back side of whatever commercial they decide to put in."

GAROFALO "Are there any questions of the speaker? Thank you, sir. Next speaker."

FRAN CROWLEY "I live at 5706 East 20th Street, which is four blocks in. I was a member of the neighborhood association as well, and we were not notified. I did the initial call on Monday to find out what was going on, and imagine our surprise. Last night, in the 100-degree heat, we went door to door and we managed to do two blocks and we picked up 45 signatures from neighbors, asking for a deferment of this issue until the traffic problems can be considered.

I can tell you, as a parent, that three years ago, we attempted to get the Traffic Department to look at putting a light at 17th and Woodlawn, or at least where the fire station is. Let me show you the problem. The fire station is right here below the

tracks (indicating). Here is the fire station, right here. We had a discussion with them, along with the parents who live in our subdivision because our children are supposed to go up here to cross the street. As you can tell, many of them live south of that area, so what they tend to do is to run across Woodlawn as fast as they can. It is a very dangerous intersection.

Three years ago, we tried to get the Traffic Department to look at it because the fire station also complains that they can't get out onto Woodlawn for emergencies, but we got nowhere with the Traffic Department. So our concern now is, if you add these buildings here, which we personally have no opinion about that. Our problem is that right now, when many of us go home in the evening, we come up north on Woodlawn and we try to turn west into our subdivision. There is always somebody doing 40 to 50 miles per hour behind us who will switch lanes at the last minute. When we walked around last night, we found four people who have been rear-ended at this intersection. That was out of the 50 households that we stopped at. So we think there is a pretty severe traffic problem here already, and we would like to have the due diligence done by the Planning Department and the Traffic Department to figure this out. Thank you."

GAROFALO "Are there any questions? Thanks, Fran. Next speaker."

AL HARRIS "I live at 7211 East Foster. I will be very brief. I have extreme concerns about the traffic on Woodlawn, close to the Hebrew Congregation's entrance. As was stated, our entrance was at the north end of the proposed property.

The other thing I have heard many times today about contracts that are in the works. At this point, we don't know that there is going to be a furniture store there. There is a contract that there might be a furniture store there. I would think that until such time that there is something definite, it is inappropriate to change the zoning. I am also in favor of its retention as single-family. If the power lines are a problem, perhaps KG&E could move them, bury them, whatever the case may be. It certainly is much more consistent with the surrounding areas to retain it as single-family. It will be much less traffic than Light Commercial. Thank you."

GAROFALO "Are there any questions of Mr. Harris? Thank you. Next speaker."

WENDY AYLWORTH "I live at 1722 South Spruce. The reason I have come to speak is that I happen to be driving down Woodlawn and noticed the zoning change sign, so I made some phone calls Tuesday and found out about it. I am here to speak about this because of our experience in our neighborhood with increased traffic and problems with development.

Our neighborhood association is the Mead Neighborhood Association and I am currently the past president. I served until May of 2000. We have also a KG&E electrical substation. It is a large substation and we have high voltage transmission lines that run over our neighborhood, which is single-family homes for the most part. We haven't had a problem with having residential housing under those high-voltage lines. We were even hit by the tornado last May of 1999 and lines came down. We have dealt with it and have not had a great deal of people moving out because of that problem. This housing has been there for many, many years and the substation was added after most of the houses were built. So, it exists. There is new housing going in in the area and I don't see that there would be a problem with this land at 17th and Woodlawn being developed as single-family homes because of the high-voltage transmission lines. In fact, currently the big health fad is that people would use electro-magnetic radiation for curing and healing.

I would also like to point out that we have bike paths that run along I-135 in our neighborhood and because of walls that were put up around the KG&E substation, and because many homes back up to the bike paths, which is a similar situation as to what is being proposed at 17th and Woodlawn, along the railroad, the Rails to Trails program is being proposed. If that goes through, and bike paths are put in, or walking paths, you will have the same similar situation as to what we have in our neighborhood currently. Currently, with buildings backing up to those bike paths, there is a great deal of crime in that area.

I would encourage any of you to go take a walk through the area between Harry and Pawnee on the east side of I-135. You will find that there is a lack of visibility for the people who wish to go into that City owned property for recreation. We have had several attempted kidnappings of children and we have had attempted rapes. The only reason that they were not completed rapes is because one young girl and the woman who were attacked in separate incidents fought incredibly hard and the attacker finally took off.

I would not like to see commercial development at 17th and Woodlawn because I believe that if you try to put in Rails to Trails, you will have great increase of crime. If you decrease the visibility of those paths by putting in large buildings, commercial development, you are going to have more crime because of it being a hidden area. Criminals can come in without being viewed. You need to have open areas clear back to the bike paths. This is not a very deep area, so if you were to leave it open and leave out the commercial development and allow the City to purchase that property and have a little more park land, which is desperately needed in that area, you will have greater safety for all of the residents.

So I just wanted to ask you to please consider that with the proposed Rails to Trails program, commercial development is very incompatible and it going to decrease safety. With increasing the amount of people walking and biking through that area, you are going to have a tremendous increase of crime. It will be a great hiding area for criminals. I am ready for questions."

GAROFALO "Are there any questions? Thank you, Ma'am. Next speaker."

TED KNOPP "I lie at 7117 Chelsea, which is a part of this Chelsea Estates subdivision on the other side of the KG&E substation. Now, we have a similar situation. Across the back of the lots on 17th Street is an electric line. These are deep lots and the houses are built along the back with electrical lines along the back of them. Residential development in that area may not be the most intensive use of that land, but it is possible. It would be consistent with the overall plan.

I can conceive of a commercial development for that that would be compatible with the neighborhood, but I don't see this one as being that. Without the only access being to the middle of the property, it will be an insular development with a backside facing the neighborhood that are not very inviting. They would back up to the rails, which are being proposed as a walkway. You would not have residents there day and night to help watch over that whole area. The way this is proposed, I don't think it is going to be very friendly to the residents in this area.

I would like to see what the real estate office is going to look like and the facades and elevations for the various developments. I think if those plans were presented that we could all make a better evaluation of how this would affect our properties. But with what we have right now, I am not very supportive of turning the back of those buildings toward the neighborhood and changing the residential character of that neighborhood. I am also concerned about the 70-foot strip that is outside this boundary and between this KG&E substation. Again, that will be residential zoning, yet that is not a part of this application. While the plan may make sense for limited purposes when you look at the larger scheme of things, I am not very comfortable that it is fully flushed out and friendly to the neighborhood. Thank you."

GAROFALO "Any questions of the speaker? Thank you. Do we have any other speakers?"

GERTRUDE MCLEOD "I live at 6516 Farmview Lane. My husband Jay and I built our home in the 6500 block of Farmview in the McEwen 7th Addition. We built it ourselves 34 years ago because of the environmental back yard. Farmview Lane is the first street south of the proposed addition. Our back yard will just about back into their development.

This land was owned by KG&E for at least 30 years that we lived there, and we were very surprised that it had been sold. The closest business section is just half a mile away in both directions, Brittany Center and Prairie Village. I notice on this petition that 33 people live on Farmview Lane. I don't know where they are today, but they ought to be here. If this change occurs, we will suffer a tremendous environmental blow. It will be a big blow, in addition to financial, from possible property devaluation. That is secondary in my book, because I had planned to die there. But I am not sure now because I think it is a terrible idea and so does everybody else on that block. Are there any questions?"

GAROFALO "Are there any questions of the speaker? Okay. Ma'am, could you show us exactly where you live?"

MCLEOD "I wish I could. We live on Farmview Lane. (Indicating) This is the proposed addition, this is Farmview, and I presume this is the fire station. We live six houses down from it. Right there. This small area here is going to put this addition practically in the back yards of two blocks of houses."

GAROFALO "Okay, thank you Ma'am. Is there anyone else to speak on this?"

MARY BARTLETT "I live at 6227 East 17th Street. I am the third house west of Woodlawn on 17th Street. I might like to ask, first of all, it seems like I don't have Pages 2 and 4 of the staff report, so I don't have a complete report of this. My objection to this, of course, is to the traffic. Seventeenth Street is the only access for this neighborhood to get out onto Woodlawn to the east, and being right there on 17th, I can tell you that everybody in my neighborhood goes by my house every morning going to work and come by there every afternoon on their way home. It is difficult to make a left turn onto 17th Street from Woodlawn in the afternoon at the time that most of us are getting off work and trying to come home.

When you approach that railroad, the railroad is elevated so you are going slightly up the grade as you are coming from the south and then it drops off as you are going north. Just about the time it starts to drop off just a little bit, you need to make your left turn. Of course there is a lot of southbound traffic and there have been numerous accidents there. I couldn't give you the statistics on that, but there are a lot of accidents there.

The wheelchair traffic from The Timbers and that area, as someone else mentioned is a definite hazard also in the area for additional traffic. There are no sidewalks in that area, so these people do have to use the street. In all kinds of weather they are out there. It is going to be more hazardous for them. So I would ask you to please not approve this zoning change. It needs to be residential area over there. I think perhaps it even needs a traffic signal of some sort irregardless of what happens to the area because it is a very busy intersection. Thank you."

GAROFALO "Any questions of the speaker? Thank you, Ma'am. Are there any other speakers? I guess not. Okay, the applicant has two minutes for rebuttal."

WILEY "I will be brief. The last lady mentioned no sidewalks on Woodlawn. There are sidewalks on both sides of Woodlawn, running north and south. Oh, you meant 17th Street, not Woodlawn? Okay, I apologize.

This proposed zoning starts 200 feet north of the south line of the track. As you can see, this is our easterly property line, and right here is the substation. Now there has been mention made about developing this into residential. I will guarantee you, and I used to work for KG&E in the substation design crew, and those large transformers hum so loud this time of year you wouldn't believe it. They have cooling fans on them that are going constantly and there is a tremendous hum. This area is not really suitable for residential development.

I think if Mr. Levich was being up front with us, he would indicate that selling a house backed into a transmission line is very, very difficult because of the noise concerns. Screening will be required all along the north line of this property, solid fencing or landscape screening or whatever, but it will have to be screened off in accordance with the landscape ordinance.

There was also a mention of the notification to the Womer's Crestview Addition on the west side of Woodlawn. There were some 26 neighbors notified."

GAROFALAO "Your two minutes are up."

WILEY "Okay. If there are any questions?"

WARREN "Gary, looking then to the east, approximately how far would it be to the closest residential, looking east?"

WILEY "Looking east? This property is 700 and it is half a mile to the nearest residence to the east, so we are talking about 2,000 feet through the substation."

WARREN "As an engineer, looking at 7.42 acres, approximately, just off the top of your head, about how many homes, if that were to go single-family, would go in there?"

WILEY "If you are talking patio homes or something, you could be looking at maybe 4 per acre, so 28 to 30 homes."

WARREN "Which would, in itself, generate quite a little traffic."

WILEY "That is about 8 trips per day on a residential so you would be talking somewhere around 240 trips or so."

GAROFALO "Are there any other questions of the agent? Thank you, Gary. Okay, the rest of the discussion will be by the Commission."

BARFIELD "Could you put the slide back up for looking west on 17th Street?"

CARROLL "This is northwest, I'm not sure..."

BARFIELD "No, I want to look directly west on 17th."

CARROLL "This is pretty much due west."

BARFIELD "You had one earlier."

CARROLL "Did I? Okay. Is that it?"

BARFIELD "No."

GAROFALO "You think there was shot going directly down the street?"

BARFIELD "Yes."

GAROFALO "Really? I don't remember it. I might mention, while we are searching for this, to the gentleman with the association across the street that there are signs that are supposed to be put up on sites for zoning changes and those signs are for the purpose of notifying people in the area. You may not have been notified as an association, and perhaps that was an error, I'm not sure, but apparently there were signs there, as some people mentioned as they spoke. The signs are there for the purpose of notifying people in the area. I guess we don't have one, huh?"

BARFIELD "There was one looking directly west."

GAROFALO "On 17th Street. Okay. Meanwhile, Commissioner Barfield, do you have a question related to that?"

BARFIELD "Yeah. My point is that I want to be sure that everybody understands because we are talking here about 17th and Woodlawn. Seventeenth is basically not a through intersection. Actually to the west, you see, it is on the west side of Woodlawn. To the east, it is about 200 feet to the south, and then you go east from Woodlawn.

Basically, most of the opposition I have heard has been related to traffic. We have not heard anything here and I don't see anything here that says that the D.A.B. heard from the Traffic Department or had any traffic concerns. I myself would like to hear from the Traffic Department to see how this would affect traffic if this were to be approved. I travel that route quite often and I have experienced the traffic concerns. I would like to see us defer this until we can hear something from the Traffic Department as it relates to how traffic would be affected if this were to be approved."

CARROLL "The Traffic Engineer is here if you would like to hear from him."

MILLER "I was just going to let you know that Paul Gunzelman, the acting Traffic Engineer is here and the Planning staff has also done an analysis on the traffic stuff. If you will look in the public services section of the report, it indicates that the current traffic volumes along there today are 21,732 average daily trips. That is projected to go up to 2505 in 2030, based on standard traffic calculations in terms of traffic generation rates. If this site were to be developed as is being proposed for the furniture store or the office and then at the future date if a self-service warehouse were approved, that would add approximately 680 to 700 additional vehicles per day at that location.

Mr. Gunzelman has taken a look at the accidents that have occurred in this area and I think he is prepared to report on that. He will also talk about anything else you want to talk to him about."

PAUL GUNZELMAN "I am with Traffic Engineering. I did look at the accidents this morning as Dale mentioned, and I pulled the accidents from January 1, 1999 through August 6 of 2000. There were 7 and that included the intersections of Woodlawn and 17th Street, Woodlawn and Farmview and the 1600, 1700 and 1800 blocks of Woodlawn, the mid-block accidents.

With those, there were two accidents at 17th and Woodlawn. One of them was northbound vehicles. The front vehicle was rear-ended by the vehicle behind as it was turning left; however, I read the driver's statement and the vehicle that did the rear-ending had reached down to pick up her purse and when she looked up, the vehicle was in front of her. The other one at 17th and Woodlawn, we had an eastbound left-turn vehicle being hit by a southbound vehicle. There were four rear-end accidents in that stretch; three of them involved buses stopping for the tracks. The car behind the bus had stopped and the car behind that one had not and rear-ended the car in front. That was the accident history I had for a year and a half. I can answer any questions on that."

GAROFALAO "For an area like that, is that a lot of accidents, can you give us an idea?"

GUNZELMAN "Not for that volume, no."

BARFIELD "Are there any plans to install a traffic light there at 17th Street, north of the railroad tracks?"

GUNZELMAN "No, there is not. Residential neighborhoods have a hard time meeting the warrants for signals due to the minor street volume."

BARFIELD "I think this is a little bit different the way that this intersection is broken up."

WARREN "Is it likely that if that track is abandoned that the elevation of that intersection would be brought back down?"

GUNZELMAN "I can't answer that. I am not sure."

GAROFALO "What would your assessment be of the additional problems that might be brought to the area there traffic-wise if there was a commercial development at that location we are looking at? Is that going to create big problems, or what?"

GUNZELMAN "With the proposed improvements, I don't believe it would. We are getting the turning vehicles out of the three lanes. The right-turn decel lanes and such would help."

GAROFALO "Okay, what about a south-bound left-turn lane? Would that be prudent, immediately?"

GUNZELMAN "Yeah, one of them."

GAROFALO "The one they are talking about here. I think they are talking about a left turn lane into the commercial."

GUNZELMAN "That would have the tendency to eliminate rear-end accidents for persons turning left. That would get them out of the through lane. One of the people mentioned a left-turn lane all the way along there to help them get off on 17th Street. I think only a two way left-turn; however where that would be would be a designated left-turn only, so that wouldn't help them there."

GAROFALO "What about traffic coming off 17th Street to turn north, say, and if there was a left-turn lane for southbound traffic. There is a left-turn to go into that commercial area. You have traffic coming out of 17th Street to turn north. Would that create quite a problem? It would appear so to me because the traffic could be stacked up there."

GUNZELMAN "South bound, left turning into the site?"

GAROFALO "Yeah."

GUNZELMAN "I think there is enough separation there because they will be stacked up north of the drive-in to the site. I don't think it would impact them."

GAROFALO "Does anybody else have any questions of the Traffic Engineer? Okay, thanks."

JAMSHEED MEHTA, Planning staff "If I may, at this location of Woodlawn north/south, the year 2030 Transportation Plan calls for a fifth lane; a turning lane in the middle which does not exist right now as part of the plat process, which is yet to happen. Our recommendation to you would be that we have some agreement with this applicant that at such a point in time in the future, when there is a C.I.P. project to do that kind of a widening, they would participate in that particular aspect as far as what is their frontage and what their effect is.

Our feeling right now is that it would be unfair to ask for that flaring of that particular street, Woodlawn, just for this one purpose because immediately north, further north even, than the Hebrew Congregation where you have Rockhill Road, which is a signalized intersection, that in itself does not have a fifth lane, a turning lane configuration on Woodlawn. So when we do take the fifth lane all the way south from the 20th block through this location, across the railroad tracks and further south as needed, that is when we will do the fifth lane configuration.

In the interim, while we have approximately 22,000 cars per day, the turning volumes from this kind of proposed commercial location is not significant, but they would be waiting for gaps in traffic from the opposing northbound. While that happens, southbound through traffic is going to be stalled, and they will queue up. Our hope is that here, if we are talking about a furniture store and an office, then it is not as significant as if it were retail commercial, a major traffic generator. But ultimately, the fifth lane is needed to smooth out the effect of that congestion."

GAROFALO "That answered my questions. Does anyone else have any other questions?"

WARREN "As I take it, there is already a requirement and an agreement to put the decel lane into that traffic moving north?"

GAROFALO "Right. Are there any other questions? We will take it back to the Commission now. I think we have heard everyone."

WARREN "Mr. Chairman, it would seem to me that with the Protective Overlay that has been agreed on here that what we are looking at is really more of an industrial park. I am a little surprised that we don't have that as a request. We are seeing industrial parks going in adjacent to and along with neighborhoods now quite frequently. Because they are very attractive; the industrial park concept. That is what it seems to me that we are looking at here with an interior road and most of the uses with the Protective Overlay being that of an industrial park."

MICHAELIS "I don't have a clue where I am at on this thing. A lot of it has to do with the fact that I think on August 31 we are going to sit here and hear the exact same thing that we just heard for another 45 minutes and nothing is going to change when it comes down to the Conditional Use. It seems like a lot of this is based on really unknowns because I think, if I read the applicant right that if the Conditional Use is not granted, then it really doesn't need the zoning. I don't know if we have the cart before the horse or what? I am having a hard time trying to figure out where the priority is. I mean the main concern from the people from the people who have spoken has been traffic, and I think that is obviously a concern, but it is probably not the main issue. The main issue is the fact of is this a good location for the type of usage that we are talking about. I am having a hard time knowing how to vote on this not knowing what is going to happen with the Conditional Use. Is that an integral part of this?"

BARFIELD "I think one of the things that is a factor here is the railroad, and we don't know for sure is going to be abandoned and we don't know if it is going to be resurrected. We don't really know. I think also the location of this railroad in relation to this development presents additional problems. Traffic problems."

PLATT "Going back to the question of the railroad. I should have asked this when I asked the first question of staff. Are there rail cars moving on the railroad at the present time?"

CARROLL "No."

PLATT "Okay. I think we need to get that in the record that it is not being used as a railroad now."

CARROLL "I might clarify that if you approve this zone change request, even on Parcel 4, there can be offices built on Parcel 4 without the self-service warehouse."

PLATT "In the past, we have looked at Woodlawn as a street that we would not start stripping out with commercial activities except at the major intersections. We turned down a request further south of here in the past year for commercial zoning. I think that is going to be an important element in my decision as to whether or not we want to start stripping out Woodlawn at this point, which would be changing what we have done in the past."

WARREN "In response here to Commissioner Platt's concerns there, I am certainly sensitive to those, but I don't think we can discount what Gary Wiley has said about the possibility of using this for residential is pretty remote and I agree with that. We have got to give the man some use for his land. It would seem to me that General Office is pretty light. So without just saying 'you can't use the land for anything', I think this is the minimum zoning that maybe he could ask for."

GAROFALO "It would seem to me that there were a couple of requests, if I recall correctly, from the speakers to ask for a deferral. It looks like there has been no opportunity for the applicant to sit down with the neighbors and discuss the propositions."

WILEY "We did at the D.A.B. meeting, plus we offered to meet with the neighbors. John Shaft was supposed to set up a meeting and we have never heard anything back from him."

GAROFALO "I guess my point is that apparently there hasn't been any discussions with the neighbors. Has there?"

WILEY "There were a lot of them there at the D.A.B. meeting and we did offer to talk to them."

GAROFALO "There were?"

WILEY "Yes."

Lady in the audience "That was at D.A.B.II, not D.A.B. I."

KROUT "What about Spring Acres?"

GAROFALO "Gary, get up to the podium, will you please? I want to know, in plain English, yes or no, have there been any meetings, besides the D.A.B. meetings?"

WILEY "No. After the D.A.B. meeting that went on for a couple of hours, I think, there was 15 or 20 people there and we did offer to sit down with those neighbors. Mr. John Shaft, who lived on Farmview Street, was going to set up a meeting. There were also members to the west in Womer's Crestview Addition and we offered to meet with them and they have not come back to us. We said give us a time."

GAROFALO "Maybe the applicant needs to initiate it, then."

WILEY "We have honestly tried."

GAROFALO "I wasn't saying that you haven't. I am just saying that it appears to me that maybe something could come of a meeting. Maybe not. But that is my thought."

MICHAELIS "I would like to ask Gary a question. Let's do a hypothetical here. If we come back on August 31 and disallow the Conditional Use for your intended use. What would your position be? Would you change it all or what?"

WILEY "No, we would develop that south Parcel 4 into offices."

BARFIELD "This is an unusual case in the fact that whereas the development is entirely in District II, it has a direct impact on the residents in District I. I don't see anything here from the D.A.B. in District I. I don't know that there was ever any notification given to anybody west of Woodlawn about what is going on here. I think, myself, that I would like to us defer this. If it is proper, I will make a motion to that."

GAROFALO "Dale, did you want to say something first?"

MILLER "I would just respond. It would be atypical to send a case to two separate D.A.B. meetings. I am not saying that we can't, it would just be unusual to do that. The case goes to the district in which the property resides. Folks 500 feet west of this location were notified based on the ownership list."

WARREN "Have we not had the signs up notifying the public?"

MILLER "I assume the signs were up. We had the lady here who testified that she saw the signs and called based on seeing those signs."

BARFIELD "So we have to raise the question, is that proper notification, placing the sign up on the property?"

MILLER "It is this Commission's policy."

MOTION: That the item be deferred for two weeks until we can get the opportunity to hear from the people west of Woodlawn in relation to this.

BARFIELD moved, **PLATT** seconded the motion.

GAROFALO "Is there any discussion?"

VOTE ON THE MOTION: The motion failed with 4 votes in favor (Platt, Lopez, Garofalo and Barfield) and 7 in opposition (Marnell, Johnson, Warren, Carraher, Michaelis, Hentzen and McKay). Osborne-Howes and Warner were not present.

GAROFALO "The motion fails."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is developed with single-family residential uses, a fire station and the Hebrew Congregation Synagogue adjacent to the site, as well as another church across Woodlawn. Commercial uses are located farther north toward Brittany Center. The most directly impacted properties by the proposed development are several residential properties zoned "SF-6" Single-Family Residential located to the west and south, where the character of development is that of predominately brick single-story dwellings, and the Hebrew Congregation Synagogue to the north that is also zoned "SF-6." East of the subject property is a KGE Substation, which is zoned "SF-6." The railroad line adjoining to the south is identified as a potential bike path. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "SF-6" Single-Family Residential and could be developed for single-family use; however, the site has remained undeveloped since it was purchased over 30 years ago. Additionally, there are high-voltage transmission and distribution lines that run the east-west length of the property and discourages residential use in the immediate vicinity of the lines. Extent to which removal of the restrictions will detrimentally affect nearby property: The suggested Protective Overlay would reduce the intensity of commercial uses allowed on Parcel 1. With these restrictions and the "GO" designation on the remaining parcels, the commercial/office uses could serve as a buffer between the residential uses to the south and the commercial activities concentrated at the intersection of Woodlawn and 21st Street North. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the 1999 Comprehensive Plan identifies the general location as appropriate for "Low-Density Residential" development, however the Comprehensive Plan indicates Institutional and Office uses as appropriate uses directly to the north. While the subject property does not conform to the Land Use Guide, it meets the Commercial Locational Guidelines of the Comprehensive Plan. Impact of the proposed development on community facilities: The presence of a single point of access onto Woodlawn poses potential traffic problems for left-bound turns, both into and out of the property. This impact would be mitigated by the relatively low traffic demand generated by a furniture store, if it is the actual use located onto Parcel 1. However, should the parcels be developed with commercial and office uses generating greater traffic demand, the need for a left-turn storage lane on Woodlawn and a second point of access to Rockhill Road becomes more important to mitigate traffic issues.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. APPROVE the zone change (ZON2000-00033) to "LC" and "GO," subject to platting within one year, with consideration of traffic improvements at time of platting, and subject to a Protective Overlay with the following conditions:
 1. Parcel 1 shall be restricted to those uses allowed as permitted uses in the "LC" Limited Commercial zoning district except the following: adult entertainment, convenience stores; construction sales and service; hotel or motel; night club; recreation and entertainment, indoor; service station; tavern and drinking establishment; tire and battery stores; and vehicle repair, limited. Restaurants shall be permitted so long as they do not provide any drive-up window service or in-vehicle food service.
 2. Building heights shall be limited to 25 feet in height.

WARREN moved, **JOHNSON** seconded the motion.

GAROFALO "Is there any discussion?"

LOPEZ "The motion is just to approve the zoning?"

WARREN "Just the zoning, yes."

GAROFALO "Is there any other discussion?"

PLATT "We are approving the Protective Overlay too, right?"

GAROFALO "Right."

VOTE ON THE MOTION: The motion carried with 9 votes in favor (Lopez, Johnson, Michaelis, Warren, Marnell, Garofalo, McKay, Hentzen and Carraher)

and 2 in opposition (Lopez and Barfield). Osborne-Howes and Warner were not present.

Item taken out of order:

12. **Case No. ZON2000-00020** - Certified Builders, Inc., c/o Dennis Neidens request a zone change from "SF-6" Single-Family Residential to "TF-3" Two-Family Residential, on property described as:

Lot 2, Block 2, Westlink Lakes Estates, Wichita, Sedgwick County, Kansas. Generally located east of Maize and south of 11th Street North (1143 Denene Lane).

GAROFALO "This is a request for duplex zoning. The item has been withdrawn and will not be heard. Is there anyone here to speak on this item? Okay then."

- 7. **ZON2000-00032** - David R. Grisham and Marilyn A. Grisham (owners) request zone change from "LI" Limited Industrial to "CBD" Central Business District on property described as:

The south 2.2 feet of lot 94, except the west 10 feet thereof, on Fifth now Santa Fe Avenue, n.a. English's 3rd addition to the City of Wichita, Sedgwick County, Kansas, together with the west half of vacated Santa Fe Avenue adjoining on the east tax key no. B-04299-0004 lot 96, except the west 10 feet thereof and the north 6.14 feet of lot 98, except the west 10 feet thereof on fifth now Santa Fe Avenue, n.a. English's 3rd addition to the city of Wichita, Sedgwick County, Kansas together with the west half of vacated Santa Fe Avenue adjoining the east. Generally located south of Waterman and east of Commerce (418 South Commerce).

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: The applicant is requesting "CBD" Central Business District zoning for a property with approximately 0.13 acre located south of Waterman and on the east side of Commerce (418 South Commerce). The property is developed with a warehouse building constructed around 1895. The building extends from property line to property line and has common walls with the adjoining warehouses to the north and south. The buildings originally fronted onto Santa Fe Avenue and were used for railroad deliveries. After the vacation of Santa Fe Avenue, the fronts of the buildings were reversed to face onto Commerce. The vacated right-of-way for Santa Fe Avenue is located along the rear of these buildings, and is open space. A cross-lot common dock agreement gives access to the rear of the buildings, but appears to be used infrequently.

The building owners, David and Marilyn Grisham, have requested "CBD" zoning in order to use the building for both residential and non-residential purposes. The current zoning, "LI" Limited Industrial, does not allow residential use. They have indicated they hope to locate a studio and workshop, a small gallery space, and a garage on the main floor and a residence on the second floor. As proposed, the off-street parking requirement would be approximately eight spaces. "CBD" would accommodate this range of uses, and also would eliminate the requirement to provide off-street parking. However, the applicants have indicated they are providing one to three off-street parking spaces within the structure, plus there are three on-street spaces in front of the building.

Mrs. Grisham currently has a home occupation type of business. She has two looms that she and one coworker use to weave tapestries. Several times a year, she plans to display her works in a gallery space within the building. She likes the spaciousness and ambiance of the warehouse for a workshop and loft, and prefers to have her home and workshop in the same location.

The 400 block of South Commerce is zoned "LI" Limited Industrial and has been used primarily for warehousing. There are several furniture warehouses, private storage, a body shop, and a parts supply business. Additionally, an antique store, Dock 410, is nearby to the north and a photography studio is located to the west, with its frontage onto St. Francis. The adjoining property to the south of the applicant is being renovated as an interior design and ceramics studio. All the property west of St. Francis, which is one-half block to the west, is zoned "CBD" and is used for a variety of uses similar to those along South Commerce.

CASE HISTORY: The property was platted as part of N. A. English's 3^d Addition in 1873. The property was considered but not rezoned to "CBD" in 1999 as part of the DR99-1 case. Nearby property owners opposed the rezoning of their properties to "CBD" as a part of the DR99-1 case. They felt that if the entire area were rezoned to "CBD" it could change the character of the area by encouraging restaurants and entertainment establishments that would not be required to provide off-street parking, which would create a parking shortage. The area rezoned to "CBD" in 1999 included the properties between St. Francis and Santa Fe, extending from 2nd Street on the north to mid-block between William and English on the south, which is about 1 ½ block north of the application area.

ADJACENT ZONING AND LAND USE:

NORTH: "LI" Limited Industrial	Storage, body shop, Dock 410, warehouse
SOUTH: "LI" Limited Industrial	Interior design/ceramics studio under construction, warehouse
EAST: "LI" Limited Industrial	Rail yard
WEST: "LI" Limited Industrial	Photography studio, parts supply

PUBLIC SERVICES: The site is served by public water and sewer services. Commerce is a 40-wide brick street. The eastern side of the street is used for 90° on-street parking.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan does not specifically address this area but refers to the "Development Plan for Downtown Wichita (June 1989)." Similarly, the Downtown Plan does not provide specific land use recommendations for the area, but identified an area a block to the northwest for housing development.

The Downtown Plan included a goal of mixed-use development, with the objective of introducing lodging, residential and/or recreational activities to areas that were "dead" during non-working hours. It also noted an unmet demand for more urban style, loft housing, and indicated the market could be absorbed by Old Town.

A strategy for residential land use in the 1999 Update of the Comprehensive Plan (II.A.1) is to "use Community Unit Plans, Planned Development Districts and zoning as tools to promote mixed use development, higher density residential environments and appropriate buffering." This proposed mixed-use help implement this strategy.

RECOMMENDATION:

The proposed mixed use of the building at 418 South Commerce cannot be accomplished due to the prohibition of residential use in the "LI" industrial district. "CBD" zoning eliminates this barrier, plus eliminates another constraint related to parking requirements. The application area is a half-block east of the beginning of the "CBD" district; in fact it was considered for "CBD" rezoning last year since it was felt that the Burlington Northern Santa Fe railroad right-of-way is a better boundary to the "CBD" than St. Francis.

The proposed rezoning supports the Downtown Plan goal of providing mixed use with a residential component and meeting the needs for loft style dwellings, although the Downtown Plan had anticipated the lofts would be located in Old Town. But, the warehouses along Commerce offer the same type of structure as in Old Town that is suitable for loft development. The proposed use would help implement the strategy in the 1999 Update by encouraging mixed-use developments with a residential component through the zoning process.

Based on these factors and information available prior to the public hearing, Staff recommends the application be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The workshop to be used primarily for the weaving business and the gallery space fits within the character of several similar studio-type uses adjoining the building to the south and across Commerce Street. Other uses include warehouses, storage, and business supply firms. While the properties on both sides of Commerce are zoned "LI," it is separated by the "CBD" district by only one-half block. From St. Francis west is zoned "CBD." The Burlington Northern Santa Fe property makes a good eastern boundary to the "CBD."
2. The suitability of the subject property for the uses to which it has been restricted: The property is being renovated for a studio by the applicants.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Since the "CBD" district does not require provision of off-street parking, the change could potentially tighten parking demand in the area. However, the applicants intend to satisfy their residential parking needs by garage space inside the building, and on-street parking is available in front of the building for the small volume of demand anticipated to be created by this use. Other potential impacts of the "CBD" zoning would be to create additional interest in similar mixed use/loft style apartments for some of the other warehouses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change supports the Downtown Plan in encouraging mixed use with a residential component for increasing activity during non-working hours, it is near the area shown on the Downtown Plan as a potential housing area, and it helps meet the market for loft-style units. It corresponds to the strategy for residential use in the 1999 Comprehensive Plan for encouraging mixed-use developments through the zoning process.
5. Impact of the proposed development on community facilities: There is no significant impact to community facilities except perhaps for parking. However, the small scale of this use should mitigate any potential parking demand.

GOLTRY "This is a request for a rezoning of a very small piece of property. There is an old warehouse on it built in 1895 that has common walls with the properties to the north and south. They are requesting 'CBD' Central Business District zoning. That would be all the same zoning as the property on the other side of St. Francis Street.

They have requested the 'CBD' zoning because they are in the unfortunate situation that they have a tapestry weaving business and they would also like to live on the second floor of the premises, and in the 'LI' district you may not live in the building. It precludes residential use.

As one of the side effects, 'CBD' would resolve them of their responsibilities of providing separate off-site parking, although they will be providing some parking internal to their building, as well as there is some on-street parking in the front of the building. This picture shows the building that used to be Balloon Studios; it will have a new name now.

I want to talk about some of the uses that are being developed in the area--Dock 410 is kind of an antique business; there are a variety of uses in the area. Warehouses are the predominant use, but there are also some commercial and art studio-type uses. Also, to the south of their building is another person who is building an interior design ceramic studio. The applicant has an overhead garage door and plan to have some parking inside to service their own needs. This is an interesting area. There is some construction underway, people are renovating.

As you can tell from staff recommendations, we are recommending approval of this requested re-zoning to 'CBD'. We have found that it is in conformance with the Downtown Plan that was done in the late 1980s where mixed use, particularly had uses that would be viable in the evening or desirable. The Downtown Plan identified an area about a block and a half from here as a potential site for residential use. It also follows your strategies in the Comprehensive Plan as using zoning as a tool for encouraging mixed-use development; higher-density residential developments. Because it is promoting these goals and strategies, we have recommended approval. I will let the applicant describe their business, and I will stand for any questions."

GAROFALO "Are there any questions of Donna? Okay. We will hear from the applicant, then."

DAVID GRISHAM "My wife and I are the owners of this property at 418 Commerce Street. Currently we reside in northeast Wichita in a home that has a basement-weaving studio. My wife is a Production Fiber Artist and she also has one additional weaver working with her in the studio on pretty much a full-time basis.

A major portion of my wife's work is marketed outside of the State of Kansas by several agents and galleries; however she has had a number of shows in the local area. These were in Michigan, Colorado, Wisconsin, and Missouri, but we don't have a tremendous amount of traffic coming in.

A number of years ago, we looked at a loft apartment, both enjoyed the concept and felt at the time when circumstances allowed, we would like to live in a large warehouse in downtown Wichita and have been seriously looking for a place where we could live and operate a studio in the same building downtown for the last several years. Our desire has been to find a building that is large enough for a large apartment and a weaving studio with some additional possibility for private gallery space where she can hang her things for presentation to local people who would be interested in commission work or to agents who might be coming through town.

We had several discussions with the Planning staff as to the zoning class that I should be looking at. When we were looking at the building, the real estate agent showing us the building said there would not be a problem with us living there and putting in an apartment. My first visit with Central Inspection convinced me that there was a minor problem. We talked about various classifications, and we felt that we wanted to go with the Central Business District because of the parking requirements that would be involved with anything less, such as Light Commercial or General Commercial. This particular building covers the entire lot, there is no additional land available for off-street parking at the building. We do have plans, as Donna said, to install an inside garage through the existing door and ramp. This would allow us to park a maximum of three vehicles inside the building. We felt that trying to purchase additional ground for off-street parking would be an additional cost burden that was a little more than we wanted to take on.

Due to the fact that the studio has very few people that would normally visit it, or that would normally be part of it, we felt that the three parking spaces immediately in front of the building would take care of our parking space almost all of the time. Due to the above reasoning, it was decided that the most usable zoning class would be the CBD, which we are applying for, but only on the spot basis. None of my neighbors indicated that they would be interested in coming in with me. We discussed what we were planning to do with all of the neighbors. No one exhibited any great amount of non-support. Two of the neighbors came to me and have given support in saying that they felt it was worth-while and would change the character of the neighborhood. They did say 'leave us alone'.

I am aware that the City attempted to change the zone class of this Commerce Street neighborhood to this same classification several years ago and met with tremendous resistance and abandoned the idea. I was not a landowner at that time and was not involved in that particular fight. I would hope that if I had been there, I would not have been involved in it as they were. It is my intent to have a very minimal effect as far as traffic or those sort of problems on the life of the neighborhood, other than to allow me a place to live and to produce and display such tapestries as my wife would be able to do and sell.

I understand that the City is attempting to revitalize and change the character of this whole downtown area as evidenced by the remodeling of the Eaton Hotel and by the addition of the various apartment buildings and condos downtown. I realize what I am proposing is very minimal compared to this Comprehensive Plan that you people have developed, but I will be bringing in an apartment, a weaving studio, a small private gallery to the area. I feel certain that the above items would be considered an upgrade over the current use of the building with an empty second story and furniture storage on

the main floor. I also feel that in the long run, the plans and changes that I want to make will increase the value of not my own building but all of the buildings from the building on the south of me to Waterman Street. Are there any questions?"

GAROFALO "Are there any questions of the applicant? I have one quick question for you. There isn't a whole lot of traffic down there, is there, other than the truck traffic or whatever?"

GRISHAM "Not an extreme amount. It is not a steady stream. There are a number of trucks that go on to the south end of Commerce and there are some delivery people that go into the first block there for Jarvis Auto, which is there and for Finn Distributing."

GAROFALO "Okay, thank you. Is there anyone else who would like to speak in favor of this application? Is there anyone to speak in opposition? Seeing none, the rest of the discussion will be by the Commission."

MOTION: Having considered the factors as contained in Policy statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood): The workshop to be used primarily for the weaving business and the gallery space fits within the character of several similar studio-type uses adjoining the building to the south and across Commerce Street. Other uses include warehouses, storage, and business supply firms. While the properties on both sides of Commerce are zoned "LI," it is separated by the "CBD" district by only one-half block. From St. Francis west is zoned "CBD." The Burlington Northern Santa Fe property makes a good eastern boundary to the "CBD". The suitability of the subject property for the uses to which it has been restricted: The property is being renovated for a studio by the applicants. Extent to which removal of the restrictions will detrimentally affect nearby property: Since the "CBD" district does not require provision of off-street parking, the change could potentially tighten parking demand in the area. However, the applicants intend to satisfy their residential parking needs by garage space inside the building, and on-street parking is available in front of the building for the small volume of demand anticipated to be created by this use. Other potential impacts of the "CBD" zoning would be to create additional interest in similar mixed use/loft style apartments for some of the other warehouses. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change supports the Downtown Plan in encouraging mixed use with a residential component for increasing activity during non-working hours, it is near the area shown on the Downtown Plan as a potential housing area, and it helps meet the market for loft-style units. It corresponds to the strategy for residential use in the 1999 Comprehensive Plan for encouraging mixed-use developments through the zoning process. Impact of the proposed development on community facilities: There is no significant impact to community facilities except perhaps for parking. However, the small scale of this use should mitigate any potential parking demand.) I move that we recommend to the governing body that the request be approved.

BARFIELD moved, **MICHAELIS** seconded the motion.

VOTE ON THE MOTION: The motion carried with 11 votes in favor. There was no opposition.

HENTZEN "Mr. Chairman, I would like to make a ruling. Earlier, Commissioner Platt decided that I shouldn't ask certain questions. I want to know, is there anything we aren't supposed to ask if we want to know? If there is, then I could probably kick out some of his."

GAROFALO "Not that I know of."

- 8. **CON2000-00029** - Bee Line Truck Repair, Inc. c/o Bob Belcher and Tom Debbrecht (Owners/Applicants); PEC c/o Rob Hartman (Agent) request a Conditional Use for wrecking/Salvage Yard on property described as:

Tract 1: Beginning at a point 742 feet east and 153 feet north of the southwest corner of government Lot 7, thence east 210 feet; thence north 133 feet; thence west 210 feet; thence south 133 feet, to the point of beginning, all in section 15, township 28 south, range 1 east of the 6th P.M., Sedgwick County, Kansas.

Tract 2: Beginning at a point 952 feet east of the southwest corner of government Lot 7, thence north 552 feet; thence west 27 feet, thence north 511.2 feet; thence east 33 feet, thence northwest 266 feet; thence

east to river; thence south 1329.2 feet; thence west to beginning, except for 8.74 acre levee case no. 48670; all in section 15, township 28 south, range 1 east of the 6th P.M., Sedgwick County, Kansas.

Tract 3: Beginning at a point 742 feet east and 419 feet north of the southwest corner of government Lot 7, thence east 183 feet; thence north to the point of beginning, all in section 15, township 28 south, range 1 east of the 6th P.M., Sedgwick County, Kansas.

Tract 4: Beginning at a point 952 feet east and 552 feet north of the southwest corner of government Lot 7, thence west 27 feet; thence south 266 feet; thence east 27 feet; thence north to the point of beginning, all in section 15, township 28 south, range 1 east of the 6th P.M., Sedgwick County, Kansas. Generally located north of 47th Street South and east of Madison (4701 S. Madison).

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant is requesting a Conditional Use to permit a wrecking/salvage yard on a 13.5 acre unplatted tract generally located north of 47th Street South and east of Madison (4701 S. Madison). The subject property is zoned "LI" Limited Industrial, and a wrecking/salvage yard is permitted with a Conditional Use in the "LI" district.

The applicant is currently operating a wrecking/salvage yard on the subject property. The existing wrecking/salvage yard is an illegal non-conforming use that began operation some time after 1997 according to aerial photographs of the site. On June 13, 1996, the MAPC approved a Conditional Use for a wrecking/salvage yard on 0.72 acres of the applicant's property that adjoins the subject property at the southwest corner. At the time, the applicant indicated that the Conditional Use was needed for approximately 30 wrecked vehicles. When contacted about the illegal use of the remaining 13.5 acres of the applicant's property for a wrecking/salvage yard, the applicant indicated that it was his understanding that the Conditional Use approved in 1996 was for all 14.22 acres of his property.

The surrounding properties are developed with industrial uses that are buffered from nearby residential development by the Arkansas River on the east, the Kansas Turnpike on the west, and 47th Street South on the south. The adjoining property to the north is developed with a wrecking/salvage yard on property zoned "LI" Limited Industrial. The adjoining property to the south is developed with a body shop on property zoned "LI" Limited Industrial. The adjoining properties to the west are developed with manufacturing, vehicle repair, vehicle sales, and single-family residential uses on property zoned "LI" Limited Industrial. The nearest properties zoned for and developed with residential uses are: single-family residences in the South Hydraulic Park 2nd Addition located approximately 300 feet to the south and buffered by 47th Street South; a manufactured home park located approximately 900 feet to the west and buffered by the Kansas Turnpike; and single family residences in Oaklawn located approximately 1,500 feet to the east and buffered by the Arkansas River.

The applicant has submitted a site plan (attached) showing the proposed use of the subject property. The site plan shows an entrance consisting of two gates along Madison with an office building, a repair shop, and a storage building located between the two gates. Most of the property is shown for car storage. The site is shown to be enclosed by either a 6.5-foot high or an 8-foot high metal fence. The Unified Zoning Code requires that wrecking/salvage yards be enclosed by a fence or wall not less than 8 feet in height; therefore, planning staff recommends a condition of approval requiring final approval of a site plan indicating a continuous 8 foot high metal fence by the Planning Director before the Conditional Use becomes effective.

CASE HISTORY: The site is unplatted. On June 13, 1996, the MAPC approved a Conditional Use for a wrecking/salvage yard on 0.72 acres of the applicant's property that adjoins the subject property at the southwest corner.

ADJACENT ZONING AND LAND USE:

NORTH:	"LI"	Wrecking/Salvage Yard
SOUTH:	"LI"	Vehicle Repair, General
EAST:	N/A	Arkansas River
WEST:	"LI"	Manufacturing, General; Vehicle and Equipment Sales, Outdoor; Vehicle Repair, Limited and General; Single Family

PUBLIC SERVICES: This site has access to Madison, a two-lane paved local street that accesses 47th Street South (a four-lane arterial) ½ block south of the site. The 1997 traffic volumes on 47th Street South were approximately 18,000 vehicles per day. The 2030 Transportation Plan estimates the volumes on 47th Street South to increase to approximately 23,000 vehicles per day, but this estimate does not include the impact of the recently approved commercial zoning located south of 47th Street South between Broadway and I-135. Municipal water and sewer services currently serve this site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Industrial" development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to travel through less intensive land uses. The proposed site meets these locational guidelines for industrial development.

RECOMMENDATION: Based upon information available prior to the public hearing, planning staff recommends that the request be APPROVED, subject to platting within one year and the following conditions:

1. The Conditional Use shall authorize the operation of an auto wrecking/salvage yard. In no event shall the storage or bailing of waste, scrap paper, rags or junk (excluding metal) be permitted in conjunction with this use.
2. The auto wrecking/salvage yard shall be enclosed by a white metal panel fence not less than 8 feet in height and having cracks and openings not in excess of five percent of the area of such fence. No automotive parts or accessories shall be displayed for view from 47th Street South, nor shall any automotive parts or accessories be permitted for screening purposes or located on or attached to the screening fence.
3. Within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, the applicant shall submit a site plan complying with the MAPC's Site Plan Guidelines and showing a continuous 8 foot high metal fence for approval by the Planning Director. The site shall be developed in general conformance with the approved site plan.
4. The site shall be developed in accordance with a landscape plan approved by the Planning Director. The landscape plan shall provide for one shade tree (or equivalent) per 30 lineal feet along the east property line where adjacent to the Arkansas River.
5. The height of wrecked vehicles or salvage shall not exceed the height of the screening fence and shall not be visible from 47th Street South.
6. Salvaged materials are to be piled and stored in an orderly manner such as would be provided by racks or bins. In order to reduce rodent potential, racks and bins shall be elevated so there is at least 18 inches between the bottom of the rack or bin and the ground. Racks or bins shall be a minimum of 48 inches away from any wall, fence, or other rack or bin. Non-rackable material shall be stored with an exposed perimeter or in a manner specified by the Health officer to prevent rodent harborage and breeding.
7. The applicant shall maintain at all times an active program for the eradication and control of rodents.
8. Weeds shall be controlled within the salvage area and adjacent to and along the outside perimeter of the screening fence.
9. Any locking devices on entrance gates shall meet Fire Department requirements.
10. Access to and within the salvage yard shall be provided by fire lanes per the direction and approval of the Fire Chief.
11. Any on-site storage of fuels, chemicals or hazardous wastes or materials must be approved by the Wichita-Sedgwick County Department of Community Health. The applicant shall permit inspections of the site for soil and groundwater contaminants by the Wichita-Sedgwick County Department of Community Health. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells on the property to monitor the quality of groundwater and shall pay the cost of an annual groundwater test for contaminants by the Wichita-Sedgwick County Department of Community Health.
12. The applicant shall implement a drainage plan approved through the platting process that minimizes non-point source contamination of surface waters.
13. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of a wrecking/salvage yard.
14. Any violation of the conditions of approval shall render the conditional use permit null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding properties are developed with industrial uses that are buffered from nearby residential development by the Arkansas River on the east, the Kansas Turnpike on the west, and 47th Street South on the south. The adjoining property to the north is developed with a wrecking/salvage yard on property zoned "LI" Limited Industrial. The adjoining property to the south is developed with a body shop on property zoned "LI" Limited Industrial. The adjoining properties to the west are developed with manufacturing, vehicle repair, vehicle sales, and single-family residential uses on property zoned "LI" Limited Industrial. The nearest properties zoned for and developed with residential uses are: single-family residences in the South Hydraulic Park 2nd Addition located approximately 300 feet to the south and buffered by 47th Street South; a manufactured home park located approximately 900 feet to the west and buffered by the Kansas Turnpike; and single family residences in Oaklawn located approximately 1,500 feet to the east and buffered by the Arkansas River.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LI" Limited Industrial. A wrecking/salvage yard is permitted with a Conditional Use in the "LI" Limited Industrial district. The property is apparently suitable for the industrial uses to which it has been restricted.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects on nearby residentially zoned property should be minimized by the site's significant buffers, the Arkansas River on the east, the Kansas Turnpike on the west, and 47th Street South on the south. The recommended conditions of approval also should minimize any detrimental affects on nearby property.
4. The relative gain to public health, safety, and welfare as compared to the loss in value or the hardship imposed upon the applicant: The hardship on the applicant to be imposed by requiring the existing wrecking/salvage operation to be relocated is greater than the relative gain to public health, safety, and welfare since the site is located in an area where wrecking/salvage is an established use and the operation would need to be located to a location where the practice may not already be established.
5. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Industrial" development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to travel through less intensive land uses. The proposed site meets these locational guidelines for industrial development.
6. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities.

KNEBEL "This property is zoned 'LI' Limited Industrial, which permits a wrecking and salvage yard with a Conditional Use. The applicant is currently operating a salvage yard at this location on a small portion of his property, about 3/4 of an acre at the southwest corner of the larger tract.

Sometime after the Conditional Use for the salvage on this particular location was approved in 1996, the use was expanded to the remainder of the applicant's property. When contacted about this from Central Inspection, the applicant responded that he was under the impression that the original Conditional Use permit was for his entire property rather than for the small portion of the property. The site is currently being nearly fully utilized for a wrecking and salvage operation.

The nearest residential properties are located south of the site, south of 47th Street. They are buffered relatively well by the business, which is south of the salvage yard, in addition to 47th Street and the screening fence that exists today. The Arkansas River is on the east side of the property, which is a buffer to the residential properties in the Oaklawn area to the east. The proposal consists of two gates along Madison, an office building, a repair shop and a storage building. Most of the property is shown for the storage of wrecked cars and other salvage.

The site plan shows either a 6-1/2 foot or an 8-foot high metal fence. However, the Unified Zoning Code does require an 8-foot high metal fence for wrecking and salvage operations. The Land Use Guide shows this property as appropriate for industrial development. As proposed, the site meets the locational guidelines of the Comprehensive Plan for Industrial development. Based on this and the findings that are located on Page 5 and 6 of the staff report, the Planning staff is recommending that this application be approved, subject to a number of conditions. These conditions are designed and are consistent with those that were placed on the applicant's property, the smaller portion of the property on the western end in 1996 as well as on, as some Commissioners may recall, a salvage yard that was recently approved earlier this year for the property up here in this location (indicating).

I will go through those conditions briefly with you so that you can understand them. It is my understanding that the applicant may have some questions regarding a couple of them. The first one is that the property be subject to platting within one year. This is primarily recommended, as you can see, in Condition No. 12 so that the applicant will be required to submit a drainage plan to ensure that this site does not lead to non-point source contamination of surface water in the area.

The recommended Conditional Use approval should only authorize the operation of an auto wrecking and salvage yard rather than the storage and baling of other types of waste and scrap paper, etc. We are recommending, as indicated, in the Unified Zoning Code, that the site be entirely enclosed by a fence at least 8 feet in height. We have recommended that the color be white. I don't know that I have a good picture of it, but the white panel fence that was recently installed on the property to the north of this site is white, so for consistency, that that color be continued around the proposed site today.

We are recommending that a site plan indicating that 8 foot high fence be submitted within 60 days of approval, that the site be developed in accordance with a landscape plan that would provide screening along the east side of the property as you drive along 47th Street in a northwesterly direction here. You can see the salvage yard basically from about here (indicating) up to here, so we are recommending screening trees to screen this property, which is at a much lower grade than 47th Street at that location."

WARREN "In that case it was just screening trees and not a fence?"

KNEBEL "A fence and screening trees, yes. The fence is actually a requirement of the Zoning Code. If the applicant didn't want to do a fence, they would have to get a Variance from the Board of Zoning Appeals. We are recommending that the height of the salvage not exceed the height of the screening fence, that the salvage materials be piled and stored in an orderly manner, that control of rodents and weeds be actively undertaken at the site, that the Fire Department approve the locking devices on the gates and the fire lanes in the site and that the Health Department approve any storage of fuels, chemicals, and hazardous materials as well as the applicant be required to obtain and maintain all permits necessary for the operation of a salvage yard. With that, I will conclude my remarks."

JOHNSON "Scott, the only question I have has to do with the height of the storage. I think we got into quite a discussion on that one to the north. I thought we had come up with some kind of a standard there."

KNEBEL "On the one to the north, we recommended that stacked salvage not be stacked higher than 10 feet. I did recommend a little difference here in that it would just be not higher than the screening fence, but certainly it is reasonable to include that same condition."

HENTZEN "What did we recommend on the height of the fence on the one to the north?"

KNEBEL "An eight foot white metal panel fence was the one to the north."

HENTZEN "But we stacked it to 10 feet?"

KNEBEL "Yes, but it was permitted for salvage to be 2 feet over that."

HENTZEN "But you don't want to do that here?"

KNEBEL "I don't recommend that, no, but it is certainly consistent with the previous one. It wasn't a recommendation of the staff on the previous one either. It was a development out of the Planning Commission."

LOPEZ "If I remember correctly, when we talked about the one to the north, there were crushed cars that they were stacking?"

KNEBEL "We discussed the possibility of that happening. The actual use, at least at this point, is for wrecked vehicles that are actually, in many cases, still operational."

WARREN "Yeah, but you are not going to stack those 10 foot high. I think what we were talking about was the smashed cars, getting ready to send them to the salvage. They usually are temporary in nature, they are there for a while and then they are gone."

HENTZEN "Are you saying that this application doesn't include the guy getting rid of them if he smashes them? Are we prohibiting him from smashing them?"

KNEBEL "No."

HENTZEN "How high can he stack them?"

KNEBEL "The recommendation is no higher than the height of the fence."

HENTZEN "How high could the other guy stack them?"

KNEBEL "Ten feet."

GAROFALO "Are there any other questions of Scott at this point? Okay. Thanks, Scott. We will hear from the applicant."

ROB HARTMAN "I am here on behalf of the applicant. We are basically in agreement with the staff comments. We would like to address the height and see it moved up to 10 feet to be consistent with the property to the north."

One other suggestion that we have is on the fencing of the property, there is an existing residence on Madison that the owner of the salvage yard has worked with and has installed a wood fence on the request of the landowner there. It is an existing wood fence there that the landowner would rather have than a metal fence. It is actually on the east side of Madison, just north of where it jogs. It is the second residence up. The site itself is not visible from the west. It is screened off from the Turnpike and he would like to be able to maintain that wood fence as long as that resident lives there. Once the property is say, not used for residential purposes, then go back in and install the 8-foot metal fence.

The car bodies he is storing here, all of the fluids are removed. They are just stripped bodies, so there is no transmission fluid, no radiators, and no engines. It is a storage facility where a crusher will come in, crush them and haul them off. The landscaping along the east property there, there is a big levy along the river, which is like about 10 feet high. It is higher even than the fence, so there is no real visibility into the site from the east side of the property. Now you do see into it when you come down 47th Street and cross the bridge. The bridge is up high and you are going to see into the site, but

we are asking him to put landscaping all along the east property line that really isn't going to do a whole lot of buffering from anybody because no one can see it as it is.

So I don't have a problem with maybe putting some trees down at the south end where they might be able to screen off some of the area from people coming across 47th Street, but to continue trees every 30 feet on the east side to the north end of the property just seems like we are wasting his money. So we would like to maybe either limit it to the south half of the property. It would still provide some screening but not put it where it is not going to do any good."

WARREN "So I hear you suggesting that you would be willing then, to screen that east line...the south half of it?"

HARTMAN "That's right. The south half of the east line."

WARREN "And then would follow those jogs on around, I would assume, to the west?"

HARTMAN "They are not asking for any screening on the west at this time."

WARREN "Well, I didn't mean the west, I meant the south. Do you look into it from there, from that bridge? Okay. When I get down there looking, I get confused. Isn't there an airplane sitting in there?"

HARTMAN "Is there an airplane there, Paul?"

Man from audience "Yes, there is."

GAROFALO "Have you completed your presentation?"

HARTMAN "Yes. If you have any questions."

GAROFALO "Let me just ask you this. I got pretty disturbed when I read this report. Were you the agent for this applicant in 1996?"

HARTMAN "No, I wasn't."

GAROFALO "Well, I'm going to say this anyway. I don't know how much we can trust this applicant to follow any conditions. If he says he did not understand that the first Conditional Use permit limited him to the smaller acreage, the southern part there, and then he turns around and starts using the whole acreage for his salvage business. How much can we trust that he is going to follow any conditions this time? If he says he didn't understand that, which is incredible, in my mind that he would not understand that he was limited to that south half.

So I was really kind of ticked off when I read this report. That is the problem with many of these Conditional Use permits. They don't follow any of the dang conditions that are presented on them. I would like to know, from your applicant if we can trust that he will follow any conditions this time that are placed on him. You can get him up here if you wish, you still have 7 minutes."

HARTMAN "All right. Will the applicant please come to the stand?"

THOMAS DEBBRECHT "I have the property there at 4754 Madison. We have put fencing all down through there already before even applying for this permit. At one time, we had that one section there and I didn't own the other property at that time. When I acquired it, we just overgrew our area. We employ about 10 people, we know we have a business that this town needs, and we run it properly. When these cars come into our salvage, they are completely stripped. The motors, the transmissions, all of the fluids are taken out. There is not one car or engine on my place, unless they are in the front lot that has not been processed. You won't find any motors with any oil in them past the front lot. Everything that goes back into that back is.

What happened is that we just overgrew. We just did. We have applied for this to help our business. I guarantee you that we are going to do everything we can to try to make this work."

GAROFALO "So you are saying that we can trust that you are going to follow any conditions that are put on this Conditional Use permit?"

DEBBRECHT "Yes. That is what we are going to try to do."

GAROFALO "That if we say you can only stack these vehicles 10 feet or 8 feet, or whatever feet, that you are going to follow that?"

DEBBRECHT "Yes. I don't believe there will be any use for stacking them at all that high."

GAROFALO "There isn't. Okay. So you don't mind the condition that you can stack only as high as the fence?"

DEBBRECHT "I do not."

GAROFALO "I will be keeping an eye on it, believe me."

DEBBRECHT "Okay, sir. Are there any other questions?"

LOPEZ "I have a question. The wooden fence on this residential property that you have there..."

DEBBRECHT "It is on our property?"

LOPEZ "Is it 8 foot?"

DEBBRECHT "No, it is not. It is 6 foot. That is what he wanted."

LOPEZ "That is what your neighbor wanted. So the rest of the white fence is 8 foot and it comes up to this residential property and then drops to 6 foot?"

DEBBRECHT "Yes."

LOPEZ "Okay."

GAROFALO "Are there any other questions of the applicant? Okay, thank you. Is there anyone else to speak in favor of this application? Is there anyone to speak in opposition?"

ANN E. MERITT "I live at 2209 East Mona Lane here in Wichita. I am the Executive Steering Committee Chairperson for the South Area Neighborhood Association, whose boundaries are the river on the east and the river on the north; the railroad tracks on the west, and now an all new annexation area clear down to 71st Street or 81st Street or whatever. We are also the umbrella organization for many other neighborhood and homeowners' associations now.

As you can see, this facility is within our boundaries, and we are not happy about that. I have been on the Parks Assessment Task Force; I am with the Greenways Commission, the Arkansas River Coalition, and the Ecological Society. I could go on and on. Since the discussion came up about the possibility of trusting, that is where we come from. Along the geologic strata area is called alluvium chat, gravel and sand. All very, very porous. Unless you flip those vehicles, and he says he only needs 13 acres for 30 vehicles, which I find very unusual for how many vehicles he is going to have on 13 acres, he would have to flip them upside down before I would trust him to say he has removed all oil pans, gas lines and gasoline tanks.

Now, we know that all vehicles, at one time or another, have to have lube jobs in order to keep the joints and the U-joints, and the different parts functioning. We also know that in many cases the brake shoe area sometimes has fluid in it. So we are talking about a lot of areas on a vehicle where they are using fossil fuels. We call those hydro-compounds. These compounds do combine with other elements, either by air or by land. We are talking about the fact that this is 13 acres along a river. We have a big push by our Mayor and by others to clean up the Arkansas River. In our area, we have seen deer, wild turkeys and many other wonderful wild life coming back into the area. We also know that the Arkansas River, even if we have a 10-foot levee or dike controlled by the Army Corps of Engineers, is flooded periodically. Water comes up. Stuff washes into the river. Chapin is only directly north of that. We are talking about the Garvey YMCA, we are talking about bike paths, we are talking about making a scenic area along our river to protect our river, our wildlife, to protect the fish. We've got to clean up the river. We are not going to clean up the river if we continue to extend salvage yards and other industrial uses along a poor river.

Gentlemen, I am fighting for the use of the river and the cleanliness of the river for the protection of all my children, all of the people, all of the families that are directly south of this facility. We are talking about homes. We are talking about airborne particulates. I am sorry, gentlemen, I do not feel that extending this man's salvage area, which he cleaned up, by the way and this has already been noted. It was worse, a lot worse, not too long ago. Thank goodness for Central Inspection. I do not feel that this is going to protect our river. That is all I have to say. Thank you."

GAROFALO "Are there any questions of Ms. Meritt? Thanks, Ann. Are there any other speakers in opposition? Incidentally, Commissioners, Jack Brown is here if we have any environmental questions or questions concerning the river."

DEETTE HUFFMAN "I am the President and founder of the Arkansas River Coalition. Obviously, it is probably useless to say that I am opposed to this, although I am opposed to it. We are opposed to anything that is downgrading the river and we are ready to fight for this sort of thing to protect it. We would like to see that this site be regularly tested and that the public be told about what the results are on it. I would like to ask that our organization in particular be told. We are the public.

I think the area that the applicant asked to not have any trees put on, I would like to object to that. If you do agree to do this, and from the history of your group, I am sure you will, I would like to request that these trees be left in the recommendation. The trees will tend to clean up the ground. I would like to ask the staff to be more careful about what is happening to the Arkansas River also. When we put things through, I would like to see a special thing here, like an environmental inventory done on it. We really need to stop putting in industrial and ugly things alongside a river that we are all trying to protect. I hope that you all get to the River Symposium that the City is putting on September 5th and 6th.

On the 5th they are going to have a tour and on the 6th, there will be a good symposium on it. I would hope that a lot of you would get to that symposium. Thank you."

GAROFALO "Any questions of the speaker? Thank you, Ma'am."

MICHAELIS "Did you mean to say Arkansas River, or Arkansas River?"

HUFFMAN "I meant to say Arkansas. The reason I do is that our organization covers all the whole river for the other states, and when I go around and talk to people in other states to get them to help, it really gets in the way. I came here from the east, and it took me forever to learn how to say Arkansas, and now it has taken me forever to say Arkansas again."

GAROFALO "Thank you. Any other speakers in opposition?"

KEN WALKER "I live at 4700 Ida, but I own the land along this property here. I own what is called Space Age Manufacturing at 4632 Madison and I own 511 feet going south of that. I am just concerned about what kind of a fence we are going to have. We have three or four different types of fence there. The reason I am asking is that I am in negotiations with a firm in Dallas to lease my property to. They want to double the size of my building and bring in about 35 employees, but it looks like it is down the river now because I don't think they are going to go along with this.

(Indicating) I am sitting right here, and I own 600 feet down here. That is what I am talking about. I am just curious about what kind of a fence we are going to have there so I can tell these people what we are going to have. I was up here on a Co-Part deal and listened to the people and I saw the plan and I went down there and looked, and what happened wasn't anything like the plan. So I don't want to lie to these people. Can anybody tell me what is going to happen?"

GAROFALO "Well, as far as we can tell, they are going to expand the salvage yard?"

WARREN "I think he is asking about the fence."

GAROFALO "Oh, the fence."

LOPEZ "The recommendation is an 8 foot white metal fence."

WALKER "I would just like to be able to tell them, are we going to have an 8 foot fence along here? (indicating)"

GAROFALO "Yes."

WALKER (Indicating) "We've already got it here. Are we an 8-foot fence along here?"

GAROFALO "Yes."

WALKER "Are we going to have the trees there? I just want to be able to tell these people what I think we are going to have."

GAROFALO "That is what we will be deciding now. All of that. Okay?"

WALKER "That is my only question."

GAROFALO "Okay. Thank you. Is there anyone else. Okay, the applicant has two minutes for rebuttal."

HARTMAN (From the audience) "I don't have anything."

GAROFALO "Okay. Then the rest of the discussion will be the Commission."

MICHAELIS "Mr. Chair, could we see the slides again, looking east towards the river. Okay, and what I am looking at there, the dark spot, is that actually the levee or is that the trees?"

KNEBEL "I am basically standing on the levee, looking across the river."

MICHAELIS "So if you were to turn around, how far down would it be to the ground level?"

KNEBEL "Down this way? I don't recall....maybe 5 to 10 feet. I don't have a good estimate."

MICHAELIS "So if we were to require a fence on that side, it would serve no purpose because the levee is going to be higher than the fence is."

KNEBEL "You are actually required to have a fence, according to the Zoning Code. If the applicant does not want to put up a fence, they would be required to get a variance from the Board of Zoning Appeals."

MICHAELIS "All right. Thank you."

GAROFALO "I would like to get Jack Brown to the podium. Jack, will you come up, please? Could you address any concerns about an expansion of this site as it relates to the river?"

JACK BROWN, Environmental Health Director "I guess if we lived in a perfect world where we could have planned this 50 to 60 years ago, we certainly would have minimized this kind of land use along this particular part of the river, but the historical and current uses are there. Basically, what we have done is to give you Conditional Use Items 11, and 12 and Item 13 is kind of a catch-all on permits and regulations that might be necessary, but we felt the most protective thing for the environment in terms of run-off, groundwater contamination, and general environmental conditions would be covered by the conditions that we placed on this particular piece of property and those items I just mentioned, Items 11,12 and 13.

We have had other situations, be it a construction demolition landfill, a salvage yard where the state may not have regulations that apply, we have put a little bit more restrictive environmental conditions on a piece of property, and we feel that the ones we have given here are protective of the environment and that is basically our position on this."

GAROFALO "Jack, with regards to inspections, how are they done, and I am not talking about physically done, but how often? Is it routinely or whenever somebody gets around to it, or what?"

BROWN "That is a good question. I think there are some of these Conditional Uses historically where some of this could have been done on more of a routine basis, but I can think of a couple of cases that we have right now with Conditional Uses where we have a set schedule in terms of groundwater monitoring, for instance, at a C & D landfill and we get that information routinely. We follow up on it, we review it, we do inspections. I think that has become more a part of our standard operating procedures to have a set routine for inspecting these kinds of facilities if we place these conditions on them."

GAROFALO "So this particular site would fall into that?"

BROWN "This would fall into that category and I guess my first thought on this would probably be something like a quarterly type of evaluations. We could increase that if necessary or decrease that if necessary, but it I think anytime you start something like this, in the initial phases there are some start-up activity that probably warrant more frequent inspections and then it would taper off. But we wouldn't want to lose this, particularly if we went to the point of installing monitoring wells. We would want to make a routine follow-up on it."

KROUT "Jack, do you think that you need the ability to go in and install monitoring wells?"

BROWN "I think we need that ability, yes. I think we ought to be able to have that ability. Whether that is warranted or not is another issue. But I do think the way the conditions read--well, it says 'be required to install wells' and I think we need to look at the site to determine if that is really necessary and I am glad you brought that up. I just noticed it says 'shall be required to'. I don't know that it would have to be an absolute requirement."

KROUT "It says if it is determined."

BROWN "Okay. So we have the flexibility, and I think that is sufficient for our needs. I don't know of any salvage yards we have monitoring wells at. Mostly it has been at C & D landfills. Most of the contamination I have seen at salvage yards tends to be soil contamination, fuels, lead from batteries, that type of thing. But certainly there are liquids handled there, fuels, gasoline, possibly solvents. We would want to be able to have some ability to go in there and monitor those activities."

GAROFALO "Anyone else have any questions of Jack? Okay, thanks, Jack."

BROWN "Thank you."

JOHNSON "I need to ask a question of Scott. Do you remember on the application that due north of this there was a fence required along the east side? Were there trees required to be planted along the east side of that?"

KNEBEL "Not along the east side. On that application, it was required along the west side. If you look here, as you drive along 47th Street and look in this direction, the fence that they have across here blocks the view of this site. What we did require was trees along the Turnpike that would grow up above the height of the fence along the Turnpike, which is also down below grade to block the view from this direction."

JOHNSON "But there were no trees along the east side on the application."

KNEBEL "That's right. There were none required along the east side. This area here (indicating) contains sufficient trees to block any view from the residences on the east side of the river."

GAROFALO "Are there any other questions of staff? Is anyone interested in making a motion?"

MOTION: Having considered the factors as contained in Policy statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood): The surrounding properties are developed

with industrial uses that are buffered from nearby residential development by the Arkansas River on the east, the Kansas Turnpike on the west, and 47th Street South on the south. The adjoining property to the north is developed with a wrecking/salvage yard on property zoned "LI" Limited Industrial. The adjoining property to the south is developed with a body shop on property zoned "LI" Limited Industrial. The adjoining properties to the west are developed with manufacturing, vehicle repair, vehicle sales, and single-family residential uses on property zoned "LI" Limited Industrial. The nearest properties zoned for and developed with residential uses are: single-family residences in the South Hydraulic Park 2nd Addition located approximately 300 feet to the south and buffered by 47th Street South; a manufactured home park located approximately 900 feet to the west and buffered by the Kansas Turnpike; and single family residences in Oaklawn located approximately 1,500 feet to the east and buffered by the Arkansas River. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LI" Limited Industrial. A wrecking/salvage yard is permitted with a Conditional Use in the "LI" Limited Industrial district. The property is apparently suitable for the industrial uses to which it has been restricted. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects on nearby residentially zoned property should be minimized by the site's significant buffers, the Arkansas River on the east, the Kansas Turnpike on the west, and 47th Street South on the south. The recommended conditions of approval also should minimize any detrimental affects on nearby property. The relative gain to public health, safety, and welfare as compared to the loss in value or the hardship imposed upon the applicant: The hardship on the applicant to be imposed by requiring the existing wrecking/salvage operation to be relocated is greater than the relative gain to public health, safety, and welfare since the site is located in an area where wrecking/salvage is an established use and the operation would need to be located to a location where the practice may not already be established. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Industrial" development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to travel through less intensive land uses. The proposed site meets these locational guidelines for industrial development. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. The Conditional Use shall authorize the operation of an auto wrecking/salvage yard. In no event shall the storage or bailing of waste, scrap paper, rags or junk (excluding metal) be permitted in conjunction with this use.
2. The auto wrecking/salvage yard shall be enclosed by a white metal panel fence not less than 8 feet in height and having cracks and openings not in excess of five percent of the area of such fence. No automotive parts or accessories shall be displayed for view from 47th Street South, nor shall any automotive parts or accessories be permitted for screening purposes or located on or attached to the screening fence.
3. Within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, the applicant shall submit a site plan complying with the MAPC's Site Plan Guidelines and showing a continuous 8 foot high metal fence for approval by the Planning Director. The site shall be developed in general conformance with the approved site plan.
4. The site shall be developed in accordance with a landscape plan approved by the Planning Director. The landscape plan shall provide for one shade tree (or equivalent) per 30 lineal feet along the south half of the east property line where adjacent to the Arkansas River.
5. The height of wrecked vehicles or salvage shall not exceed 10 feet.
6. Salvaged materials are to be piled and stored in an orderly manner such as would be provided by racks or bins. In order to reduce rodent potential, racks and bins shall be elevated so there is at least 18 inches between the bottom of the rack or bin and the ground. Racks or bins shall be a minimum of 48 inches away from any wall, fence, or other rack or bin. Non-rackable material shall be stored with an exposed perimeter or in a manner specified by the Health officer to prevent rodent harborage and breeding.
7. The applicant shall maintain at all times an active program for the eradication and control of rodents.

8. Weeds shall be controlled within the salvage area and adjacent to and along the outside perimeter of the screening fence.
9. Any locking devices on entrance gates shall meet Fire Department requirements.
10. Access to and within the salvage yard shall be provided by fire lanes per the direction and approval of the Fire Chief.
11. Any on-site storage of fuels, chemicals or hazardous wastes or materials must be approved by the Wichita-Sedgwick County Department of Community Health. The applicant shall permit inspections of the site for soil and groundwater contaminants by the Wichita-Sedgwick County Department of Community Health. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells on the property to monitor the quality of groundwater and shall pay the cost of an annual groundwater test for contaminants by the Wichita-Sedgwick County Department of Community Health.
12. The applicant shall implement a drainage plan approved through the platting process that minimizes non-point source contamination of surface waters.
13. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of a wrecking/salvage yard.
14. Any violation of the conditions of approval shall render the conditional use permit null and void.

JOHNSON moved.

WARREN "As the motion maker, how about this fellow that likes his wood fence, could we allow that?"

JOHNSON "We can't do anything about that."

KNEBEL "The fence could be wood, but it would be required to be 8 feet high."

GAROFALO "I would maybe support the motion if the applicant himself said that he didn't see any need for stacking anything higher than the fence. He said that right there, and he says we can trust him. So, I would say that if we would change that to 'no higher than the 8 foot fence'."

MICHAELIS seconded the motion.

JOHNSON "The main thing is, I just feel like from somebody that is inspecting these and all of a sudden you have one next door that is 10 feet and one is 8 foot. That would start a bunch of arguing, and if they are the same, they are the same. That is the reason I did that, besides I know what the applicant said. If he only wants to stack them 8 foot, that is fine with me. And you don't trust him anyway, so."

GAROFALO "That's right. I don't trust him. He will have to prove it to me."

VOTE ON THE MOTION: The motion carried with 8 votes in favor (Marnell, Johnson, Warren, Carraher, Lopez, Barfield, Michaelis and McKay) and 3 in opposition (Platt, Garofalo and Hentzen).

HENTZEN "I don't think we ought to be telling people what color they can make their fence. The next time we have some other application, we are going to use the excuse that we don't like that color. I just don't think that we need to get into that. That is why I voted no. I am really in favor of the motion."

BARFIELD "I don't want to speak for staff, but I think the only reason for doing that was to maintain some consistency with the fencing that was already there."

PLATT "I want to explain my 'no' vote. I appreciate Commissioner Hentzen joining us in voting against this. This is not an easy question because of the long history we have of putting our junkyards in this area. I think Mr. Brown's comments were very good on that point. I was having a hard time making up my own mind, and I might have voted in favor if we had put the trees all the way along it. But once we backed off from that, it seemed to me that what we were saying is that we are doing everything we can to really not attempt to clean up the river. I guess my vote says it is time to take a public stand that we must do something to start turning around the way we have used the river and this is as good of a time to start as any."

GAROFALO "I would second Commissioner Platt's comments. I would like to have seen the trees along the whole east side there and also the height limitation of the fence."

WARREN "Actually, they keep the trees off of that dike. They won't let them grow there."

GAROFALO "Is there anyone here to speak on Item No. 12, which is ZON2000-00020, which is the Maize Road and 11th Street North on Denine Lane. It is for duplex zoning request. That case has been withdrawn if anyone is here for it. It will not be heard.

9. **Case No. CON2000-00024** - Rosalie & Ronald Higgins (applicants) request a Conditional Use to permit a Bed and Breakfast Inn on property described as:

Beginning at the NW/c of the SE Quarter of Section 28, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas; thence South along the West line of said Southeast Quarter bearing S 0 degrees 00'00" W a distance of 40 feet; thence bearing S 87 degrees 10'43" E, a distance of 596.78 feet; thence bearing S 05 degrees 26'15" W a distance of 513.75 feet; thence bearing S 87 degrees 00'00" E a distance of 157.75 feet; thence bearing N 38 degrees 27'12" E a distance of 688.76 feet; thence bearing N 87 degrees 46'18" W along an existing fence row a distance of 53 feet; thence bearing N 86 degrees 58'51" W along an existing fence row a distance of 432.22 feet; thence bearing N 87 degrees 10'43" W a distance of 658.80 feet to the point of beginning. Generally located 1/2 mile south of intersection 103 South and 175 West (10800 S. 175th Street West).

BARRY CARROLL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicants are requesting a Conditional Use to permit a bed and breakfast inn on an unplatted five-acre tract of land zoned "RR" Rural Residential outside of Clearwater, Kansas (see map). The application area is a trapezoid-shaped parcel and is located ½ mile south of the intersection of 103rd Street South and 175th Street West. Access to the site is from 175th Street West. The applicants are constructing a new home and wish to operate a bed and breakfast inn within their residence. Construction on the outside of the structure is nearly complete but work continues on the inside. According to the applicants, there are five (5) rooms designated for the bed and breakfast inn and there will be a maximum of 10 transient guests at any one time.

The applicants have been advised that one of the requirements for a bed and breakfast inn is a resident manager. The applicants state that they intend to live on-site and serve as managers of the inn. The applicant submitted a revised site plan that indicated the appropriate number of paved parking slots based upon the Unified Zoning Code (UZY) requirements [one handicapped slot plus one slot per guestroom]. The surrounding properties to the north, south, east and west are zoned "RR" Rural Residential and used for agricultural purposes. The application area is remote and there are no residences within ½ mile of the site. The applicants stated that a sign would be placed near the driveway entrance on 175th Street West. The sign shall not exceed twelve square feet in area and any lights used to illuminate the sign shall be so arranged as to reflect the light away from adjoining premises (per County Code Administrator).

According to the applicants, they were unaware of the need for a Conditional Use until the Sedgwick County Code Enforcement staff contacted them. County staff placed a "stop work order" on this project and informed the applicants that, if they planned to operate a bed and breakfast, they would need to construct their residence to conform to commercial building code standards. The applicant was also required to make improvements to his driveway in order to accommodate emergency vehicles.

Additionally, Health Department officials have notified the applicants that they will need to address problems with stopping the flow of a nearby creek. The applicants allegedly have, by building their driveway, caused water to back up on an adjoining owner's property. The applicants will need to secure a "development permit" from the Sedgwick County Public Works Department regarding this floodplain issue. If the Conditional Use is approved, if the driveway is modified appropriately, if the septic system is approved and if the water issue is properly addressed, the County will then issue an "occupancy change permit" so that the applicants may legally operate a bed and breakfast on site.

According to the Unified Zoning Code (UZY), "bed and breakfast inn means the use of an owner-occupied or manager-occupied residential structure to provide rooms for temporary lodging or lodging and meals for not more than 10 transient guests [a person who occupies a room for a period of less than one week at a time] on a paying basis.

CASE HISTORY: None.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR" Rural Residential	Farm Ground
EAST:	"RR" Rural Residential	Farm Ground
SOUTH:	"RR" Rural Residential	Farm Ground
WEST:	"RR" Rural Residential	Farm Ground

PUBLIC SERVICES: 175th Street West is an unpaved two-lane township road. Traffic estimates are unavailable but traffic volumes are low. Well water, electricity and sewer services (septic tank) are provided on-site. The Sedgwick County Health Department may require an additional septic tank and 900 linear feet of laterals in order to meet the bed and breakfast inn requirements. The applicants must secure a new permit from the Health Department since their initial permit is no longer in effect (permits expire after one year).

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this property as "rural." This category encompasses land outside the 30 year Wichita urban service boundary and the small city growth areas. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services." The Unified Zoning Code (UZC) permits a bed and breakfast inn with a Conditional Use permit in the "RR" Rural Residential district.

RECOMMENDATION: The applicant has submitted a revised site plan to indicate the appropriate number of paved parking slots based upon the Unified Zoning Code (UZC) requirements. Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. The site shall be developed and operated in general conformance with the MAPC approved site plan.
2. There shall be five (5) rooms designated for the bed and breakfast inn and there will be a maximum of 10 transient guests at any one time.
3. Signage shall not exceed twelve square feet in area and any lights used to illuminate the sign shall be so arranged as to reflect the light away from adjoining premises.
4. The water well and septic system must comply with conditions set forth by Sedgwick County Health Department staff.
5. The driveway must meet the requirements (20-feet wide) for emergency vehicles.
6. A Development Permit must be secured from the County's Public Works Department in order to address water-related problems within the floodplain.
7. The applicants shall obtain all federal, state and local permits;
8. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

(That items #4, #5 and #6 be completed prior to the issuance of an "occupancy change permit"):

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Currently the area is zoned "RR" Rural Residential. The character of the neighborhood is one of agricultural uses.
2. The suitability of the subject property for the uses to which it has been restricted: The purpose of the "RR" Rural Residential is to accommodate low density residential and other agricultural land uses. The proposed use would be similar to residential living that is also permitted in this zoning district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property. The adjacent properties to the north, south, east and west are zoned "RR" Rural Residential. Minimal detrimental effects are anticipated from the proposed Conditional Use. The conditions placed on the request mitigate the prospect of a detrimental impact on adjacent properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies this property as "rural." This category encompasses land outside the 30 year Wichita urban service boundary and the small city growth areas. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services."
5. Impact of the proposed development on community facilities: The applicants must secure a new permit from the Sedgwick County Health Department regarding the septic tank and lateral requirements. The initial permit expired in February 1998, according to Health Department staff. With approval of this project by the County Health and Public Works Departments, the projected impact on community facilities is minimal.

CARROLL "The applicants for this request are present. The application area is surrounded by farm ground. The house has been under construction for sometime and is nearly complete. The applicants are wanting to have five rooms designated for a bed and breakfast with a maximum of ten guests. They have some issues to work out with the County. One is regarding the nearby creek. When the applicant put in a driveway, he, in effect, dammed the water. The applicant has indicated, however, that he is willing to put in a culvert to let the water flow through. Also, the Sedgwick County Health Department has to take another look at the septic tank issue and we will have to issue them a permit.

I will direct you to the memorandum for the Clearwater Planning Commission that was held on Tuesday, August 1. They voted 4-0 to approve, subject to the MAPD staff comments, which are located at the top of Page 4 of the staff report. We are recommending approval, subject to those eight conditions. I will take any comments that you might have."

GAROFALO "Are there any questions of Barry? If not, we will hear from the applicant, then."

RONALD HIGGINS "I am the owner of the property. It is just like he said it is our intention to use this residence as a bed and breakfast. We intend to comply with all of the conditions, there is really no problem about that. There is the issue of the water, which our neighbor, Norm Phelps and I have discussed. I told him I would put a culvert in; there is standing water. The staff report refers to a creek. It is really not a creek; it is just a low spot. When it floods, and the water flows, it tends to collect there. The only way for it to get out is just through evaporation."

As far as the need to get rid of the water, it is far more of a concern for us than it is for Norman. We don't want the potential of having a mosquito breeding grounds right adjacent to our house. We intend to take care of this. We are unsure of whether a culvert will do it or not.

As far as the culvert, we are putting a culvert in. It was supposed to be in this last Monday, but the company that is putting it in hasn't finished it yet, but it should be put in some time this week. After that is put in, we will go ahead and finish the road. That is the other question that the Fire Department is concerned about, that's about getting a hard gravel surface on there. This is all coming about, it is just a matter of time to get it done."

GAROFALO "Are there any questions of the applicant? Okay, thank you. Is there anyone here to speak in opposition to this application? Is there anyone who wants to speak in opposition?"

LIEUTENANT WALTER ROONEY "I am the Deputy Fire Marshall of the Sedgwick County Fire Department. We are kind of on both sides on this thing. We have been trying to get the property in compliance with the applicable Fire Code as well as resolve the roadway flood issue. That road does go through a flood plain. We are not against the Conditional Use permit being issued; however we are recommending and would like to suggest that it not be approved until the roadway and all of the other issues are first put into compliance."

The road does not, as of yesterday, conform with the Fire Code of both Sedgwick County and the Sedgwick County Fire District, as far as the width and the drainage. As far back as a year ago, we asked that the road be put in compliance. It still has not. There has been three different occasions that the road was underneath water. The applicant has placed that road above the flood plain; however, it still backs up to water. We are recommending that you hold off on granting this Conditional Use until the property is in compliance with the conditions that were supposed to have already been taken care of.

Item No. 5 says that the driveway must meet requirements of emergency vehicles. It has been our position that unless we require compliance prior to the start of a project that people have a tendency not to comply with that particular requirement. The Fire Department does express a lot of concern on getting access to the property. This structure is about 1,000 feet off the road and it would be a shuttle operation which would require two trucks to pass back and forth. We are of the opinion that if this road is not put in place prior to the granting of this Conditional Use, that it may not be put into place. There are certain design requirements that also haven't been met."

MARNELL "I have a question of staff. The requirements in here, per the Conditional Use permit would not be active until all of the requirements are met, would they?"

KROUT "Well, that is the way we would interpret it, but we did have a similar situation once with the County Code Enforcement where we had a requirement for landscaping and the County Code Enforcement people told us that it would be clearer and easier to enforce if you would say 'prior to' because otherwise someone might say 'well, it doesn't say when I have to plant my trees'."

So I would suggest that you make conditions 4,5, and 6 all conditions that need to be met prior to occupancy for this use."

MARNELL "On landscaping, I can understand that sometimes during the wintertime it is a little hard."

MICHAELIS "You said when you started that there was some Fire Code issues. Were they Fire Code issues with the building or just with the access and the road?"

ROONEY "There are Fire Code issues with the entire project. Even if this was a single-family residence, we would still have the same access requirements."

MICHAELIS "But it is not like sprinkler systems or anything. It has to do with access?"

ROONEY "Right. This has to do with access to the structure, that's correct."

WARREN "I would like to ask the applicant if these conditions on 4,5 and 6 having to do with the driveway primarily, is it going to be a threat to you in opening?"

HIGGINS "In order to do any type of landfill in a floodplain, you actually have to apply to the Department of Agriculture through Topeka. It is a long, drawn-out process. Normally it takes about 3 to 4 months. We applied for this in July of last year. We did not receive our permit until about February of 2000. So really, we couldn't do any work until that time. Mr."

Rooney implies that he told us we were not in compliance. We intended all along to raise the road, but we still had to wait and get permission to do it.

When we got permission to get the excavation crew in to do the work, we still had water on the road and we couldn't put in the culvert. We went ahead and raised the road up to a point. All of these things are just the matter of doing it, but it just takes time. We couldn't do that until we got the permit, which was in February or March, but we still intend to comply with all of these. There is no reason to not do it."

WARREN "But if we made a requirement that an occupancy permit wouldn't be granted until such time as these items were taken care of, it wouldn't work a hardship on you?"

HIGGINS "We verbally agreed to them when the Fire Chief came out and inspected the road, and now he is coming back and saying that he wants this done. We will have this all done before we move in.

Back to this water issue; the water drying up. There is a fence which lies between our properties. The fence, right now, is totally dry, but there is still water on the other side, which means there are still some low spots that aren't going to be drained by putting a culvert in. It is just a low spot on his side and a low spot on our side. But we still intend to, in some way, to correct that in order to prevent the health problem we were talking about earlier."

GAROFALO "Are there any other questions of the Fire Department?"

ROONEY "The Fire Department has no objection to the bed and breakfast going in, we are just expressing our concern for the record, that we are very concerned with access to this structure."

GAROFALO "I think we are going to take care of that right now. Thank you. Is there anyone else here to speak in opposition? I think the applicant has had his two minutes. All right, then, we will take it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: Currently the area is zoned "RR" Rural Residential. The character of the neighborhood is one of agricultural uses. The suitability of the subject property for the uses to which it has been restricted: The purpose of the "RR" Rural Residential is to accommodate low density residential and other agricultural land uses. The proposed use would be similar to residential living that is also permitted in this zoning district. Extent to which removal of the restrictions will detrimentally affect nearby property. The adjacent properties to the north, south, east and west are zoned "RR" Rural Residential. Minimal detrimental effects are anticipated from the proposed Conditional Use. The conditions placed on the request mitigate the prospect of a detrimental impact on adjacent properties. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies this property as "rural." This category encompasses land outside the 30 year Wichita urban service boundary and the small city growth areas. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services." Impact of the proposed development on community facilities: The applicants must secure a new permit from the Sedgwick County Health Department regarding the septic tank and lateral requirements. The initial permit expired in February 1998, according to Health Department staff. With approval of this project by the County Health and Public Works Departments, the projected impact on community facilities is minimal.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. The site shall be developed and operated in general conformance with the MAPC approved site plan.
2. There shall be five (5) rooms designated for the bed and breakfast inn and there will be a maximum of 10 transient guests at any one time.
3. Signage shall not exceed twelve square feet in area and any lights used to illuminate the sign shall be so arranged as to reflect the light away from adjoining premises.
4. The water well and septic system must comply with conditions set forth by Sedgwick County Health Department staff.
5. The driveway must meet the requirements (20-feet wide) for emergency vehicles.
6. A Development Permit must be secured from the County's Public Works Department in order to address water-related problems within the floodplain.
7. That the above items #4, #5 and #6 be completed prior to the issuance of an "occupancy change permit" (per MAPC).
8. The applicants shall obtain all federal, state and local permits;
9. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

MCKAY moved, **MICHAELIS** seconded the motion, and it carried unanimously (11-0).

10a. Case No. CUP2000-00028; DP-170 Reflection Ridge C.U.P. Amendment #1 - Amendment to create a new parcel from the south 250 feet of Parcel 1 of DP-170 Reflection Ridge C.U.P. that allows office uses; and

10b. Case No. ZON2000-00034 - Zone change from "SF-6" Single-Family Residential to "GO" General Office for the proposed new parcel; described as:

BEG 752.90 FT N & 30 FT E OF SW COR SW1/4 N 708.72 FT NE 291.05 FT SE 832.66 FT W 533.02 FT TO
BEG EXC PT DED FOR STREET SEC 4-27-1W, Wichita, Sedgwick County, Kansas. Generally located north of 21st Street North on the east side of Tyler Road.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: The applicant is requesting the division of Parcel 1 of DP-170 Reflection Ridge Community Unit Plan to create a new parcel, Parcel 1A, for a maximum of 20,000 square feet of office development. The new parcel would be zoned "GO" General Office and be located upon the south 250 feet of the existing Parcel 1. The new parcel would be 2.7± acres in size and the remaining portion of Parcel 1 would decrease from 6.79 acres to 4.09 acres.

DP-170 Reflection Ridge is a residential community unit plan. Parcels within Reflection Ridge are zoned "SF-6" Single-Family, but are approved for a variety of residential housing types and densities so long as the overall density of the total development does not exceed 4.5 dwelling units per acre. Parcel 1 is approved for the following dwelling types and number of units: single-family – 27 units, patio homes or zero lot line – 34 units, duplexes – 40 units, townhouses – 85 units, and apartment or assisted living – 136 units. This is a maximum density of 20 dwelling units per acre for Parcel 1, and corresponds to locating a more concentrated residential area along the arterial street, Tyler Road.

The applicant proposes to allocate the proportionate share of residential uses and densities between Parcel 1 and Parcel 1A, retaining the possibility of using the newly created parcel for residential purposes, but without altering the overall density or dwelling types already permitted.

The development of Parcel 1A with office uses would add a commercial component to DP-170. The maximum building coverage and floor area requested is 20,000 square feet. This represents a building coverage and floor area ratio of 17 percent. The maximum height requested is 35 feet, which is the same height as is permitted for residential development. The maximum number of buildings requested is three buildings. The applicant has requested that a screening wall not be required between Parcel 1 and Parcel 1A in order for the offices and residences to take advantage of the proposed lake to be located between the parcels.

Currently Parcel 1 is permitted two openings onto Tyler Road. One opening would be retained to serve the residential uses on Parcel 1. The second opening would be on the southern portion of Parcel 1A and be located across Tyler Road from the major opening to the Warren Theatre.

Parcel 1A is situated between different types of development. The adjoining property to the south is zoned "GO" General Office on the western half and "SF-6" on the eastern half. The "SF-6" on the eastern half is used as a parking lot by customers of Village Charter while the customers are on tours with Village Charter. This parking lot was approved as a special use exception by the Board of Zoning Appeals (1-96). The remaining property extending south to 21st Street North is occupied by a retail center. Southwest of Tyler Road is the Warren Theatre and another small commercial center. The property directly across Tyler Road from the proposed office uses are the rear lots of residences in Sterling Farms 6th Addition. The land to the north is vacant (Parcel 1 of Reflection Ridge). The land to the east is Hole 7 of the Reflection Ridge golf course.

CASE HISTORY: The application area is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-6"	Vacant, golf course
SOUTH:	"GO"; "LC", "SF-6"	Restaurants, shoe store, paint store, two restaurants, bank, Village Charter
EAST:	"SF-6";	Golf course
WEST:	"SF-6", "LC"	Residences, Warren Theatre, commercial uses

PUBLIC SERVICES: The property is located along Tyler Road, which is shown as a two-lane arterial on the 2030 Transportation Plan. Traffic counts in 2000 were 5,510 (ADTs) on Tyler Road north of 21st Street North. The projected volume of traffic for 2030 is 7,176 ADT. The proposed "GO" rezoning with a permitted 20,000 square feet of office use would be anticipated to generate approximately the same volume or slightly less traffic (400 cars per day) than that generated by the residential uses developed at the maximum permitted density of 54 dwelling units (540 cars per day).

Improvements to serve nearby commercial development have been made to Tyler, extending north as far as the southern boundary of Parcel 1A. These improvements consist of a four-lane road with one lane northbound, two lanes southbound, and a center turn lane into the Warren Theatre directly across from the entrance to Parcel 1A. Tyler tapers into a two-lane county arterial road from this location northward. Construction is underway to improve Tyler Road from 29th Street North to 53rd Street North to two-lane county standards.

Water and sewer services are available to the property.

CONFORMANCE TO PLANS/POLICIES:

The "Wichita Land Use Guide" of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this area for "low density residential" use. However, the property immediately to the south is shown for "commercial" use. The site meets the criteria of the commercial locational guidelines by being located on an arterial street, being developed as a compact cluster of commercial uses rather than extended strip development, and not feeding commercial traffic directly onto residential streets.

RECOMMENDATION: The creation of a new parcel for office use would provide a buffer between higher intensity retail uses to the south and the residential uses and the golf course to the north and east. The office parcel is across Tyler Road from single-family residences with rear yards along Tyler. The main entrance to the office use is situated south of the residential uses, thus channeling the most of the traffic toward 21st Street North.

Based on these considerations and the information available prior to the public hearing, Staff recommends the request be APPROVED as follows:

- A. APPROVE the zone change (ZON2000-00034) to "GO" General Office, subject to platting of the entire property within one year.
- B. APPROVE the Community Unit Plan (DP-170) Amendment #1, subject to the following conditions:
 1. There shall be one opening from Parcel 1A and one opening from Parcel 1 onto Tyler Road. Minimum separations between drives shall be 300 feet. A decel lane, taking into consideration the drive openings on the tract to the south of Parcel 1A, shall be provided at the time of platting.
 2. General Provision Number 6 shall be amended to provide that signage for Parcel 1A shall be restricted to that permitted by the Sign Code. Signs shall be spaced a minimum of 150 feet apart along the frontage of the C.U.P., regardless of how the land is owned or leased. Signs for Parcel 1A shall be monument type with a maximum height of 20 feet.
 3. A landscaped street yard shall be provided per the Landscape Ordinance along Tyler Road. A landscape buffer shall be provided on the north and east boundary line of Parcel 1A in lieu of a solid screening wall where separated by the lake. If the lake is not provided and Parcel 1A is developed with office uses, solid screening of evergreens or a masonry wall between six and eight feet in height shall be provided.
 4. Architectural Control – All buildings within Parcel 1A shall have the same predominate exterior building materials with consistent architectural character, color and texture, and consistent lighting design (fixtures, poles, lamps, etc.) as approved by the Director of Planning. Lighting shall be designed to reflect downward and away from residential areas and to comply with provisions of the Unified Zoning Code.
 5. Loading areas, trash receptacles, outside storage, and docks in the C.U.P. shall be screened from ground level view with materials to match or similar to that of the main building materials from Tyler Road and from adjacent property zoned "SF-6".
 6. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the north Parcel 1A is zoned "SF-6" Single-Family but approved for a range of residential housing types and densities. The property to the east is zoned "SF-6" and is part of the golf course. The adjoining property to the south is zoned "GO" and "SF-6", but the "SF-6" portion is subject to a special use exception for a parking lot. The remaining areas to the south and southwest are zoned "LC" and developed with a range of commercial uses. The property directly to the west across Tyler Road is zoned "SF-6" and developed with single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The property could remain "SF-6" and be developed as a part of the Parcel 1 of DP-170 Reflection Ridge in residential uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this amendment would allow additional office development near Sterling Farms 6th Addition. However, these uses are separated

by Tyler Road, and by lot orientation, with the rear lots of the single-family residences being along Tyler, thus mitigating the impact.

4. Length of time the property has remained vacant as zoned: The property has been available for development since 1987.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The 1999 Land Use Update identified the area for low-density residential use; however, the approved C.U.P. already provides the potential for high-density development on Parcel 1 and Parcel 1A since it is part of an planned residential development that maintains an overall density in the low-density residential range. The proposed office use conforms to commercial locational guidelines of the Comprehensive Plan.
6. Impact of the proposed development on community facilities: The amendment and rezoning would not be expected to have any significant impacts on community facilities.

GOLTRY "This is a request to divide Parcel 1 into two Parcels, 1 and 1a. It is accompanied by the associated zone change request to be rezoning this property from 'SF-6' Single-family to 'GO' General Office. This shows a zoning pattern in the area. We are talking about Parcel 1a. being the rezoning parcel. This is just the southern 250 feet of the entire tract of Parcel 1 and it is the zone change we will be looking at today. The property to the south is zoned 'GO', the property to the southeast is zoned 'SF-6', but it has a B.Z.A. Special Use Exception to be used as parking for people who are on charter tours with Village Charters to the south. We have commercial in this area with several restaurants (pointing to the northeast and northwest corner).

Directly opposed to the subject tract, which is already zoned 'SF-6' single-family, but is part of a residential C.U.P., so it is approved already for a range of housing types and densities, multi-family uses up to a certain amount prior to this case as part of Reflection Ridge. We have single-family residences to the west across Tyler Road and single-family residences to the east across the golf course.

There is 20,000 square feet of office development on Parcel 1a, or they could be permitted still the development with residential uses. They have proposed a floor area ratio of .17, which is low; a building height of 35 feet.

Staff has made recommendations in favor of the approved zoning request. We think that this is a use that would provide a buffer between the commercial uses to the south and the golf course and lower density residential uses to the north. Bear in mind that they have already been approved for a range of residential uses on Parcel 1 and 1a, regardless of the outcome of today's zoning decision.

If you will look at the staff comments on Page 4, I had a number of recommendations that were prepared and copied prior to receiving a revised C.U.P. plan from the applicant, so if you will allow me to go through them one at a time I will tell you when we are already in agreement with one another.

First, on Condition No. 1, we have recommended some transportation improvements; in particular that there is one opening on Parcel 1a and one opening on Parcel 1. They are in agreement with the separation of drives of 300 feet. The only point of difference between what I am recommending and what they have in their C.U.P. plan is that the item on decel lane, taking into consideration the drive openings on the tract to the south, I had stated 'shall be provided' and they had put on the C.U.P. drawing 'will be determined at the time of platting'. That is an issue that remains to be resolved in today's discussion.

Item No. 2 has been incorporated in the revised C.U.P. plan, so that can be stricken from the recommendations. The same way with Item No. 3. We are not quite in the same language, but we are in the same intent, and that is that when you have this wide of a golf course area, you don't need a screening wall between the office development and the residences because you will have some landscaping, at least a 25 foot landscape strip is what they have agreed to provide, and then you have the golf course, which should provide adequate landscape buffer between the office uses and the residences approximately 250 feet to the east.

Item No. 4 can be deleted. It is the same as what they have included on their revision. Item No. 5 is essentially the same. We have included language that the materials for screening would match or be similar to the main building materials and it would be screened from both Tyler Road and adjacent properties zoned 'SF-6'. I believe the applicant is in agreement with that condition as I have stated it. We can confirm that with him at the time of his presentation.

There are several things that have been put on your desk regarding this case. One is that at the D.A.B. meeting the D.A.B. recommended in favor of both the zoning request and the C.U.P. amendment. There was one family at the D.A.B. meeting in opposition. I don't believe the D.A.B. minutes reflect the fact that she was there. Her name was Marilyn Nieves. I think I can point out where her property lies. (Indicating) She has that house right there, directly across from kind of the northern one-third of what would be the residual Parcel 1. She has provided pictures that I will pass around to you now. I also have a letter that she provided. You have that letter at your desk and you can see from the letter and the pictures that she opposed to the use of the property for anything except single-family and patio homes. I will stand for questions."

LOPEZ "At the D.A.B. meeting, the answers to the questions, are these incorporated as the recommendations from the D.A.B.? They have response from Mr. Hartman and he points 1,2,3, and 4; that he is responding to questions asked that these are going to be, I guess, conditions that they are agreeing to."

GOLTRY "Right. He has agreed that the building height maximum is 35 feet and he said that likely there would be the pond to both the north, which would kind of run on the line separating Parcel 1 and Parcel 1a, plus there is already a pond area, I believe, developed to the east of Parcel 1a. And that they would want to use landscaping and berming so that they had views to the lakes rather than using a screening wall."

ROB HARTMAN (From the audience) "There is not a lake to the east?"

GOLTRY "Okay. I stand corrected on that. That was his response."

GAROFALO "Okay. Are there any other questions? Thanks, Donna. Is the applicant here?"

ROB HARTMAN "I am here on behalf of the applicant. We are in agreement with the staff comments as Donna stated them, and the revisions. I think a lot of the revisions she talked about are already incorporated in the C.U.P. provisions. The main concern by the one lady to the east was--one of the sketches I showed was a proposed pond on the golf course site itself that doesn't have anything to do with this property, it was just a concept plan and it is up to the golf course whether they want to build a pond or not. I think her concern was her grandkids were going to fall into the lake and things like that, but it really didn't have anything to do with this property."

Our other main concern was on that originally they were requesting a screening wall between our two properties. We have introduced a provision that would allow for 25 foot of landscape in lieu of the wall so that the office buildings would be able to look back onto the golf course and onto the proposed lake they are proposing between the two parcels. The land use has already been set up in the C.U.P. for multi-family use to the north. We are not asking for any changes to that."

GAROFALO "Are there any questions for the agent?"

LOPEZ "So you are stating that you are in agreement with the conditions set forth by staff as stated here?"

HARTMAN "Yes."

GAROFALO "Are there any other questions?"

GOLTRY "I think that includes the fact that he recognizes that I said we were in agreement with how he stated the landscaping provision on the revised C.U.P., right?"

HARTMAN "Right."

GOLTRY "Because mine was a little more complex than what his was."

KROUT "Donna, are we reducing the maximum number of units because we're proportionately to the reduction of the parcel?"

GOLTRY "Yes, but what each of the parcels 1 and 1a have is the proportionate share of the total amount that would have been permitted originally."

GAROFALO "Donna, is there anyone else to speak on this? Are you speaking in favor or in opposition?"

LARRY RYAN "I am opposed. I live at 2317 West Pepperidge Circle. I am one of the residents that live right behind this property. I am opposed to this zone change. There has been a lot of commercial property that has moved into this area along 21st Street, and about 10 new restaurants since we have lived there, in the last 2-1/2 years. We welcome those, that is just part of progress. But if you look at that original map, you are wedging in right between the residents on Tyler and on Pepperidge, you are wedging in more commercial property right in the midst of that."

We already have a noise pollution there in that area. At night you can hear a lot of noise from the All-Star Recreation area. With the Warren Theater there, you have lots of lighting and at night, you are not sure whether it is night or day, and now we are going to add some more traffic and we are going to kind of wedge in commercial property right in between residential property, and so I believe I speak for others in our neighborhood that we are opposed to this rezoning of this property. Are there any questions?"

HENTZEN "Where did you say you lived?"

RYAN "It backs up, if you can flip back to the one photo..."

HENTZEN "Are you north of 21st, on the east side of the street?"

RYAN "Yes. I can show you right here. (Indicating) One of these houses right here would be our house. That would be towards the east. Basically we back up right there to where that property is. As you can see on the sheet here, you can see that there is residential property here and on Tyler there is residential property. This is just kind of an intrusion, right in the midst of this residential property with more commercial property.

There are a lot of other buildings along 21st Street that are not occupied at this time, so I really would like to see that remain residential property. I think that would be good wisdom for all of the residents on both sides there. Are there any other questions?"

GAROFALO "Any other questions of the speaker? Okay, thank you, sir. The agent has two minutes for rebuttal."

HARTMAN "One thing I would like to point out is what we are putting in here is a residential style character office building; one story buildings, and it is going to provide a buffer from the commercial to the south. We have residential uses to the north and the property right now is already zoned to accommodate apartments, if he wanted to put apartments in there, or some higher density type uses, but we feel that this would be a much better buffer as far as traffic and noise goes. We think this would be a good alternative to what he has now."

RYAN (From the audience) "I thought this was zoned 'SF-6' single-family."

KROUT "Donna, could you explain how that works?"

GOLTRY "The property is zoned 'SF-6' Single-Family, but it is part of a residential Community Unit Plan, which allows an overall density within Reflection Ridge of 4.5 dwelling units per acre. But in this particular area, it is allowed up to a maximum of, off the top of my head, I think it is 136 apartment units, that be placed on this site right now, as approved. What they have done is Reflection Ridge, as a whole, has picked out three or four parcels where they have concentrated their higher density types of housing, and they are particularly oriented toward Tyler Road and I think there is another parcel over on the opposite side."

RYAN "So could apartments be put on that other tract of land, still?"

GOLTRY "Yes."

RYAN "They can still put apartments there?"

GOLTRY "Yes, on the residual of Parcel 1."

GAROFALO "Okay, we will take it back to the Commission now. Is there a motion?"

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The property to the north Parcel 1A is zoned "SF-6" Single-Family but approved for a range of residential housing types and densities. The property to the east is zoned "SF-6" and is part of the golf course. The adjoining property to the south is zoned "GO" and "SF-6", but the "SF-6" portion is subject to a special use exception for a parking lot. The remaining areas to the south and southwest are zoned "LC" and developed with a range of commercial uses. The property directly to the west across Tyler Road is zoned "SF-6" and developed with single-family residences. The suitability of the subject property for the uses to which it has been restricted: The property could remain "SF-6" and be developed as a part of the Parcel 1 of DP-170 Reflection Ridge in residential uses. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this amendment would allow additional office development near Sterling Farms 6th Addition. However, these uses are separated by Tyler Road, and by lot orientation, with the rear lots of the single-family residences being along Tyler, thus mitigating the impact. Length of time the property has remained vacant as zoned: The property has been available for development since 1987. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The 1999 Land Use Update identified the area for low-density residential use; however, the approved C.U.P. already provides the potential for high-density development on Parcel 1 and Parcel 1A since it is part of an planned residential development that maintains an overall density in the low-density residential range. The proposed office use conforms to commercial locational guidelines of the Comprehensive Plan. Impact of the proposed development on community facilities: The amendment and rezoning would not be expected to have any significant impacts on community facilities.) I move that we recommend to the governing body that the request be approved, subject to the following;

- A. APPROVE the zone change (ZON2000-00034) to "GO" General Office, subject to platting of the entire property within one year.

B. APPROVE the Community Unit Plan (DP-170) Amendment #1, subject to the following conditions:

1. There shall be one opening from Parcel 1A and one opening from Parcel 1 onto Tyler Road. Minimum separations between drives shall be 300 feet. A decel lane, taking into consideration the drive openings on the tract to the south of Parcel 1A, shall be provided at the time of platting.
2. Loading areas, trash receptacles, outside storage, and docks in the C.U.P. shall be screened from ground level view with materials to match or similar to that of the main building materials from Tyler Road and from adjacent property zoned "SF-6".
3. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

LOPEZ moved, **WARREN** seconded the motion.

GAROFALO "Is there any discussion?"

VOTE ON THE MOTION: The motion carried with 11 votes in favor. There was no opposition.

Garofalo temporarily left the meeting.

11. **Case No. ZON2000-00031** - Den Mark Land, LLC (Applicant & Owner c/o Dennis Dowes); Gary Wiley, PEC (agent) request zone change from "RR" Rural Residential to "SF-20" Single-Family Residential on property described as:

THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 26 SOUTH, RANGE 1 WEST OF THE 6TH P.M., SEDGWICK COUNTY, AKNSAS; EXCEPT THE SOUTH 60 FEET. Generally located 1/4 mile north of 53rd Street North on the east side of Tyler Road, Maize, Kansas.

BARRY CARROLL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

The applicant wishes to rezone property currently zoned "RR" Rural Residential to the "SF-20" Single-Family District. The "SF-20" district permits 40,000 square foot lots in areas like this where septic tank systems are acceptable to the Health Department and the occupants will depend on on-site water. Currently the Health Department is currently in the process of determining whether the soil will meet the requirements for a septic tank system. Health Department staff has not officially approved the type of septic system for the site as yet.

The property is 76.4 acres in size and is currently being platted. The applicant intends to construct 18 single-family dwelling units (large lots with 40,000 square feet) around two sandpit lakes. The application area is a rectangular shaped parcel and is located north of 53rd Street on the eastside of Tyler Road. In 1998 this site was approved for a Conditional Use permit to extract sand and gravel. At that time, the applicant submitted a re-development plan that depicted 18 residential lots approximately 40,000 square feet in size. The current application is in substantial compliance with the existing redevelopment plan.

The adjoining properties are zoned "RR" Rural Residential. The property north of the application area is farm ground and zoned "RR" Rural Residential, the property south is a sand pit ("Central Sand") and is zoned "RR" Residential, east is a sheep farm is zoned "RR" Rural Residential, and the property to the west is also farm ground and zoned "RR" Rural Residential. Access to the site will be from Tyler Road per the platting process.

Currently, the two sandpits are being excavated (a north and south lake). Currently, there are several pieces of heavy equipment on site and large dump trucks are constantly entering and leaving the site. The excavation on the South Lake will be completed in approximately three years. The North Lake is nearly completed and will developed first. The two owners plan to build houses on the North Lake with other houses to follow. The South Lake will be developed when the excavation is completed. The east part of the application area will be used for clubhouse for the homeowners association.

CASE HISTORY: On 7/16/98 the MAPC approved a conditional use request (CU-484) to allow sand and gravel extraction. The property is intended to be subdivided into 18 single-family lots as the "Mystic Lakes Addition." The MAPC Subdivision Committee will consider this preliminary plat sometime in the fall of 2000.

ADJACENT ZONING AND LAND USE:

NORTH: "RR" Rural Residential	Farm Ground
EAST: "RR" Rural Residential	Farm Ground
SOUTH: "RR" Rural Residential	"Central Sand" Business

WEST: "RR" Rural Residential

Farm Ground

PUBLIC SERVICES: The site will have access from Tyler Road, which is currently an unpaved two-lane township gravel road. Traffic volumes are not available.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the application area as appropriate for "rural" uses. This category encompasses all the land outside the 30-year Wichita urban service boundary and the small city growth areas. The new rural category is intended to accommodate "agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services." The updated Comprehensive Plan does not suggest a minimum lot size for development in these rural areas. The Sedgwick County Development Guidelines indicates that this site is beyond the 2030 Urban Service Area. Thus the application is not expected to receive urban service within the next 30 years.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to platting within one year.

This recommendation is based upon the following findings:

1. The zoning, uses and character of the neighborhood: The application area is located north of 53rd Street North and east of Tyler Road. The property north of the application area is zoned "RR" Rural Residential, the property south is a commercial sand operation and is zoned "RR" Rural Residential, east is a sheep farm and zoned "RR" Residential and the property to the west is farm ground and zoned "RR" Rural Residential. The character of the neighborhood is one of mixed agricultural, large lot and extraction uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned "RR" Rural Residential with a Conditional Use to permit sand gravel extraction with a redevelopment plan for large-lot residential use. This area has seen an increase in the development of large-lot residences and sand and gravel extraction operations.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Adjacent properties are zoned "RR" Rural Residential. Rezoning of this property to "SF-20" Single-Family District will not introduce any new potential uses to the area.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies the application area as appropriate for "rural" uses. This category encompasses land outside the 30 year Wichita urban service boundary and the small city growth areas. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. Although these lot sizes are smaller than typical rural lots, the overall density is low due to the lake areas.
5. Impact of the proposed development on community facilities: With the development of residences, there may be an increased interest in the paving of this section of Tyler Road in the future. The site will not likely utilize public sewer or water.

CARROLL "This case was before you approximately two years ago for sand and gravel extraction, located 1/4 mile north of 53rd Street North on the east side of Tyler Road. They are proposing two lakes, a north and a south lake. The north lake is currently being excavated, the south lake will be completed in two to three years.

There is a lot of activity on the site right now. The applicant and agent are here. They are requesting a zone change from 'RR' Rural Residential to 'SF-20', large lot single-family residential on 76 acres.

I would direct your attention to the memorandum from the Maize Planning Commission that was held on August 3. They voted 5-0 to recommend approval, subject to MAPD staff comments. So we are recommending that this be approved, subject to platting within one year and that the applicant shall conform to the recommendation of the Health Department staff regarding the appropriate type of septic system for this area. I will entertain any questions you might have."

MARNELL "Are there any questions?"

LOPEZ "That issue on septic tanks that has to be approved by the Health Department. Are these lots large enough to accommodate, away from the lake?"

CARROLL "I will defer to the agent on that."

GARY WILEY "I am here on behalf of the applicant. We have already met with the Health Department, Richard, and we can meet the criteria. We have to fill the site, and the nearest lateral field can be 50 feet from the water's edge, and it will exceed requirements."

MARNELL "Are there any other questions of the applicant? Is there anyone else to be heard in favor of this application? Is there anyone in opposition? If not, we will bring it back to the board."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The application area is located north of 53rd Street North and east of Tyler Road. The property north of the application area is zoned "RR" Rural Residential, the property south is a commercial sand operation and is zoned "RR" Rural Residential, east is a sheep farm and zoned "RR" Residential and the property to the west is farm ground and zoned "RR" Rural Residential. The character of the neighborhood is one of mixed agricultural, large lot and extraction uses. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned "RR" Rural Residential with a Conditional Use to permit sand gravel extraction with a redevelopment plan for large-lot residential use. This area has seen an increase in the development of large-lot residences and sand and gravel extraction operations. Extent to which removal of the restrictions will detrimentally affect nearby property. Adjacent properties are zoned "RR" Rural Residential. Rezoning of this property to "SF-20" Single-Family District will not introduce any new potential uses to the area. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies the application area as appropriate for "rural" uses. This category encompasses land outside the 30 year Wichita urban service boundary and the small city growth areas. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. Although these lot sizes are smaller than typical rural lots, the overall density is low due to the lake areas. Impact of the proposed development on community facilities: With the development of residences, there may be an increased interest in the paving of this section of Tyler Road in the future. The site will not likely utilize public sewer or water.) I move that we recommend to the governing body that the request be approved, subject to platting within one year.

MCKAY moved, **JOHNSON** seconded the motion, and it carried unanimously (11-0).

Garofalo returned to the meeting.

13. Other matters

MARNELL "Marvin, do you have anything on this?"

KROUT "On the September 21 meeting, we will have an election of the Chair and Vice-Chair."

MARNELL "I would request of staff also if you would re-confirm that everybody sitting on the Commission was appropriately appointed and not sitting in violation of the City or the County or resolutions."

GAROFALO "Are there any other matters? Okay, we will take a motion to adjourn."

MOTION: That the Metropolitan Area Planning Commission adjourn.

JOHNSON moved, **CARRAHER** seconded the motion, and it carried unanimously.

The Metropolitan Area Planning Commission formally adjourned at 5:00 p.m.

State of Kansas)
Sedgwick County) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2000.

Marvin S. Krout, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)